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Bill 112

Government Bill

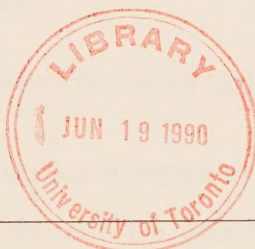
2ND SESSION, 34TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 112

An Act respecting the regulation of the Profession of Respiratory Therapy

The Hon. E. Caplan
Minister of Health



1st Reading June 6th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for the regulation of the profession of respiratory therapy by the College of Respiratory Therapists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 15 restricts the use of the title "respiratory therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of respiratory therapy.

Bill 212**1990**

An Act respecting the regulation of the Profession of Respiratory Therapy

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. In this Act,

Definitions

“College” means the College of Respiratory Therapists of
Ontario;

“Health Professions Procedural Code” means the Health
Professions Procedural Code set out in Schedule 2 to the
Health Professions Regulation Act, 1990;

1990, c. ...

“profession” means the profession of respiratory therapy;

“this Act” includes the Health Professions Procedural Code.

2.—(1) The Health Professions Procedural Code is
deemed to be part of this Act.

Health
Professions
Procedural
Code part of
this Act

(2) In the Health Professions Procedural Code as it applies
in respect of this Act,

Terms in
Code

“profession” means the profession of respiratory therapy;

“this Act” means this Act and the Health Professions
Procedural Code.

(3) Definitions in the Health Professions Procedural Code
apply with necessary modifications to terms in this Act.

Definitions in
Code

3. The practice of respiratory therapy is the providing of
oxygen therapy, cardio-respiratory equipment monitoring and
the assessment and treatment of cardio-respiratory and associ-
ated disorders on the order of a member of the College of

Scope of
practice

Physicians and Surgeons of Ontario to maintain or restore ventilation.

Authorized
acts

4. In the course of engaging in the practice of respiratory therapy, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Intubation beyond the opening of the nostrils or beyond the larynx on the order of a member of the College of Physicians and Surgeons of Ontario.
2. Administering a substance by injection or inhalation on the order of a member of the College of Physicians and Surgeons of Ontario.

College
established

5. The College of Respiratory Therapists of Ontario is established.

Council

6.—(1) The Council shall be composed of,

- (a) at least eight and no more than twelve persons who are members elected in the prescribed manner; and
- (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,

(i) members,

(ii) members of a College as defined in the *Health Professions Regulation Act, 1990*, or

1990, c. ...

(iii) members of a Council as defined in the *Health Professions Regulation Act, 1990*.

Who can
vote in
elections

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President and
Vice-
President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Executive
Committee

8.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;

- (b) two members of the Council who are members of the College; and
- (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

(2) The President of the Council shall be the chair of the Executive Committee. President to be chair

9. The Registration Committee shall be composed of, Registration Committee

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

10. The Complaints Committee shall be composed of, Complaints Committee

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

11. The Discipline Committee shall be composed of, Discipline Committee

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

12. The Fitness to Practise Committee shall be composed of, Fitness to Practise Committee

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

13. The Quality Assurance Committee shall be composed of, Quality Assurance Committee

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Appointment
of committee
members by
Council

14. The Council shall appoint the members of the committees mentioned in sections 8 to 13.

Restricted
titles

15.—(1) No person other than a member shall use the title “respiratory therapist”, a variation or abbreviation of it or its equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

Representations
of
qualification,
etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a respiratory therapist or in a specialty of respiratory therapy.

Notice if
suggestions
referred to
Advisory
Council
1990, c. ...

16.—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Health Professions Regulation Act, 1990*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements
re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister’s notice of the suggestion.

Offence

17. Every person who contravenes subsection 15 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.

Regulations

18. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation by or to members of controlled acts set out in subsection 26 (2) of the *Health Professions Regulation Act, 1990*.

Transition
before Act
comes into
force

19.—(1) The Lieutenant Governor in Council may appoint a transitional Council.

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Powers of transitional Council before Act in force

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Idem

(4) The Minister may,

Powers of Minister

- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Health Professions Regulation Act, 1990*.

1990, c. ...

(5) If the Minister has required the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Transitional Council to comply with Minister's request

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Regulations

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Idem

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

Minister may pay expenses

20.—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council

Transition after Act comes into force

is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.

Terms of
members of
transitional
Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

Composition
of
committees
of transi-
tional
Council

(3) Sections 8 to 13 do not apply to committees of the transitional Council.

Commence-
ment

21.—(1) This Act, except section 19, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 19 comes into force on the day this Act receives Royal Assent.

Idem

(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

Short title

22. The short title of this Act is the *Respiratory Therapy Act, 1990*.

Bill 213

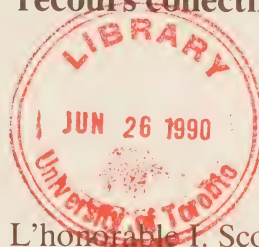
An Act respecting Class Proceedings

The Hon. I. Scott
Attorney General

1st Reading June 12th, 1990
2nd Reading
3rd Reading
Royal Assent

Projet de loi 213

Loi concernant les recours collectifs



L'honorable I. Scott
procureur général

1^{re} lecture 12 juin 1990
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The purpose of the Bill is to facilitate class proceedings in Ontario. The principal provisions of the Bill are as follows:

1. Class proceedings may be initiated in three ways. A member of a class of persons may commence a proceeding on behalf of the class. A person who commences such a proceeding must make a motion to the court to have the proceeding certified as a class proceeding and to be appointed representative plaintiff (section 2). A defendant to two or more proceedings may move to have the proceedings certified as a class proceeding and a representative plaintiff appointed (section 3). As well, a party to a proceeding against two or more defendants may move to have the proceeding certified as a class proceeding and a representative defendant appointed (section 4).
2. The court is given guidance as to when to certify a class proceeding (sections 5 and 6).
3. Class members may opt out of a class proceeding (section 9).
4. The court may make any appropriate order concerning the conduct of a class proceeding to ensure its fair and expeditious determination (section 12). The court may stay any proceeding related to a class proceeding (section 13).
5. Class members may be permitted by the court to participate in a class proceeding (section 14). Discovery of class members and examination of class members before a motion or application is permitted in certain circumstances (sections 15 and 16).
6. There is provision for notice to class members when a class proceeding is certified and when individual participation is required to determine individual issues (sections 17 and 18). The court may also order notice to class members at any time to protect the interests of class members or parties (section 19).
7. Statistical information may be admitted as evidence in a class proceeding in certain circumstances (section 23).
8. The court may determine the aggregate or any part of a defendant's liability to class members and give judgment accordingly (section 24).
9. The court may require the participation of class members in order to determine individual issues and may, for the purpose, select appropriate procedures (section 25).
10. The court has a wide discretion as to how awards made in a class proceeding are to be distributed (section 26).
11. The extent to which a judgment on common issue binds class members is addressed (section 27). The question of limitation periods is also addressed (section 28).
12. Discontinuance, abandonment and settlement of a class proceeding require the approval of the court (section 29).
13. There is provision for appeals of orders made in a class proceeding (section 30).

NOTES EXPLICATIVES

Le projet de loi a pour but de faciliter les recours collectifs en Ontario. En voici les principales dispositions :

1. Les recours collectifs peuvent être introduits de trois façons différentes. Tout membre d'un groupe de personnes peut introduire une instance au nom du groupe et, à cette fin, doit demander au tribunal, par voie de motion, de certifier que l'instance constitue un recours collectif et de le nommer représentant des demandeurs (article 2). Le défendeur dans plusieurs instances peut également demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des demandeurs soit nommé (article 3). Une partie à une instance introduite contre plusieurs défendeurs peut encore demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des défendeurs soit nommé (article 4).
2. Le projet de loi présente au tribunal des lignes directrices lui permettant de décider dans quelles circonstances certifier un recours collectif (articles 5 et 6).
3. Les membres du groupe peuvent se retirer d'un recours collectif (article 9).
4. Le tribunal peut, afin de parvenir à un règlement juste et expéditif, rendre les ordonnances appropriées concernant le déroulement du recours collectif (article 12). Il peut surseoir à une instance liée au recours collectif (article 13).
5. Le tribunal peut permettre aux membres du groupe de participer à un recours collectif (article 14). L'enquête préalable et l'interrogatoire de membres du groupe avant l'audition d'une motion ou d'une requête sont permis dans certaines circonstances (articles 15 et 16).
6. Le projet de loi prévoit qu'un avis est donné aux membres du groupe lorsque le recours collectif est certifié et que la participation, à titre individuel, des membres est nécessaire pour décider les questions individuelles (articles 17 et 18). Le tribunal peut aussi ordonner, en tout temps, qu'un avis soit donné aux membres du groupe afin de protéger leurs intérêts ou ceux des parties (article 19).
7. Dans certaines circonstances, les données statistiques peuvent être admises en preuve dans un recours collectif (article 23).
8. Le tribunal peut établir la totalité ou une partie de la responsabilité du défendeur envers les membres du groupe et rendre un jugement en conséquence (article 24).
9. Le tribunal peut demander la participation des membres du groupe afin de décider les questions individuelles et, à cette fin, peut choisir la procédure appropriée (article 25).
10. Le tribunal est investi d'un pouvoir discrétionnaire étendu pour décider de la façon dont les montants adjugés lors d'un recours collectif seront distribués.
11. Le projet de loi traite de la mesure dans laquelle les jugements rendus sur les questions communes lient les membres du groupe (article 27). Il traite également des délais de prescription (article 28).
12. Le désistement d'un recours collectif et la transaction obtenue dans le cadre de ce dernier doivent être approuvés par le tribunal (article 29).
13. Le projet de loi prévoit la possibilité d'interjeter appel des ordonnances rendues dans les recours collectifs (article 30).

14. An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court (section 32). A solicitor may enter into an agreement with a representative party for payment of fees and disbursements only in the event of success in a class proceeding (section 33).

14. L'entente conclue entre un procureur et un représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal (article 32). Un procureur et un représentant peuvent conclure une entente qui ne prévoit le paiement des honoraires et des débours qu'en cas d'issue favorable du recours collectif (article 33).

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39. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions**1. In this Act,**

“common issues” means,

- (a) common but not necessarily identical issues of fact,
or

Projet de loi 213**1990****Loi concernant les recours collectifs****TABLE DES MATIÈRES****Article**

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35. Règles de pratique
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39. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«défendeur» S'entend en outre d'un intimé. («defendant»)

«demandeur» S'entend en outre d'un requérant. («plaintiff»)

- (b) common but not necessarily identical issues of law that arise from common but not necessarily identical facts; (“questions communes”)

“court” means the Ontario Court (General Division) but does not include the Small Claims Court; (“tribunal”)

“defendant” includes a respondent; (“défendeur”)

“plaintiff” includes an applicant. (“demandeur”)

Plaintiff's
class
proceeding

2.—(1) One or more members of a class of persons may commence a proceeding in the court on behalf of the members of the class.

Motion for
certification

(2) A person who commences a proceeding under subsection (1) shall make a motion to a judge of the court for an order certifying the proceeding as a class proceeding and appointing the person representative plaintiff.

Idem

(3) A motion under subsection (2) shall be made,

(a) within ninety days after the later of,

(i) the date on which the last statement of defence, notice of intent to defend or notice of appearance is delivered, and

(ii) the date on which the time prescribed by the rules of court for delivery of the last statement of defence, notice of intent to defend or a notice of appearance expires without its being delivered; or

(b) subsequently, with leave of the court.

Defendant's
class
proceeding

3. A defendant to two or more proceedings may, at any stage of one of the proceedings, make a motion to a judge of the court for an order certifying the proceedings as a class proceeding and appointing a representative plaintiff.

Classing
defendants

4. Any party to a proceeding against two or more defendants may, at any stage of the proceeding, make a motion to a judge of the court for an order certifying the proceeding as a class proceeding and appointing a representative defendant.

«questions communes» S'entend, selon le cas :

- a) de questions de fait communes, mais pas nécessairement identiques;
- b) de questions de droit communes, mais pas nécessairement identiques, qui découlent de faits communs, mais pas nécessairement identiques. («common issues»)

«tribunal» La Cour de l'Ontario (Division générale), à l'exclusion de la Cour des petites créances. («court»)

2 (1) Une instance peut être introduite devant le tribunal au nom des membres d'un groupe de personnes par un ou plusieurs membres du groupe. Recours collectif du demandeur

(2) La personne qui introduit une instance en vertu du paragraphe (1) demande à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que l'instance est un recours collectif et nommant la personne représentant des demandeurs. Motion en vue de faire certifier le recours collectif

(3) La motion visée au paragraphe (2) est présentée, selon le cas : Idem

- a) dans les quatre-vingt-dix jours après celle des deux dates suivantes qui est postérieure à l'autre :
 - (i) la date à laquelle la dernière défense, le dernier avis d'intention de présenter une défense ou le dernier avis de comparution a été remis,
 - (ii) la date à laquelle expire le délai prescrit par les règles de pratique pour la remise de la dernière défense, du dernier avis d'intention de présenter une défense ou du dernier avis de comparution sans que celui-ci n'ait été remis;

b) par la suite, avec l'autorisation du tribunal.

3 Le défendeur dans plusieurs instances peut, en tout temps au cours de l'une des instances, demander à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que les instances sont un recours collectif et nommant un représentant des demandeurs. Le défendeur fait certifier le recours collectif

4 Toute partie à une instance introduite contre plusieurs défendeurs peut, en tout temps au cours de l'instance, demander à un juge du tribunal, par voie de motion, de rendre une Groupe de défendeurs

Certification

5.—(1) The court shall certify a class proceeding on a motion under section 2, 3 or 4 if,

- (a) the pleadings or the notice of application discloses a cause of action;
- (b) there is an identifiable class of two or more persons that would be represented by the representative plaintiff or defendant;
- (c) the claims or defences of the class members raise common issues;
- (d) a class proceeding would be the preferable procedure for the resolution of the common issues; and
- (e) there is a representative plaintiff or defendant who,
 - (i) would fairly and adequately represent the interests of the class,
 - (ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
 - (iii) does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

Idem,
subclass
protection

(2) Despite subsection (1), where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, the court shall not certify the class proceeding unless there is a representative plaintiff or defendant who,

- (a) would fairly and adequately represent the interests of the subclass;
- (b) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the subclass and of notifying subclass members of the proceeding; and

ordonnance certifiant que l'instance est un recours collectif et nommant un représentant des défendeurs.

5 (1) Le tribunal saisi d'une motion visée à l'article 2, 3 ou 4 certifie qu'il s'agit d'un recours collectif si les conditions suivantes sont réunies :

Recours collectif certifié par le tribunal

- a) les actes de procédure ou l'avis de requête révèlent une cause d'action;
- b) il existe un groupe identifiable de deux personnes ou plus qui se ferait représenter par le représentant des demandeurs ou des défendeurs;
- c) les demandes ou les défenses des membres du groupe soulèvent des questions communes;
- d) le recours collectif est le meilleur moyen de régler les questions communes;
- e) il y a un représentant des demandeurs ou des défendeurs qui :
 - (i) représenterait de façon équitable et approprié les intérêts du groupe,
 - (ii) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom du groupe et d'aviser les membres du groupe de l'instance,
 - (iii) n'a pas de conflit d'intérêts avec d'autres membres du groupe, en ce qui concerne les questions communes du groupe.

(2) Malgré le paragraphe (1), s'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le tribunal ne doit pas certifier qu'il s'agit d'un recours collectif, à moins qu'il n'y ait un représentant des demandeurs ou des défendeurs qui :

Idem, protection du sous-groupe

- a) représenterait de façon équitable et appropriée les intérêts du sous-groupe;
- b) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom

- (c) does not have, on the common issues for the subclass, an interest in conflict with the interests of other subclass members.

Evidence as to size of class

(3) Each party to a motion for certification shall, in an affidavit filed for use on the motion, provide the party's best information on the number of members in the class.

Adjournments

(4) The court may adjourn the motion for certification to permit the parties to amend their materials or pleadings or to permit further evidence.

Certification not a ruling on merits

(5) An order certifying a class proceeding is not a determination of the merits of the proceeding.

Certain matters not bar to certification

6. The court shall not refuse to certify a proceeding as a class proceeding solely on any of the following grounds:

1. The relief claimed includes a claim for damages that would require individual assessment after determination of the common issues.
2. The relief claimed relates to separate contracts involving different class members.
3. Different remedies are sought for different class members.
4. The number of class members or the identity of each class member is not known.
5. The class includes a subclass whose members have claims or defences that raise common issues not shared by all class members.

Refusal to certify: proceeding may continue in altered form

7. Where the court refuses to certify a proceeding as a class proceeding, the court may permit the proceeding to continue as one or more proceedings between different parties and, for the purpose, the court may,

du sous-groupe et d'aviser les membres du sous-groupe de l'instance;

- c) n'a pas de conflit d'intérêts avec d'autres membres du sous-groupe, en ce qui concerne les questions communes du sous-groupe.

(3) Chaque partie à la motion en vue de faire certifier le recours collectif fournit, au moyen d'un affidavit déposé à l'appui de la motion, les renseignements les plus exacts possibles sur le nombre de membres du groupe.

Importance du groupe

(4) Le tribunal peut ajourner la motion en vue de faire certifier le recours collectif afin de permettre aux parties de modifier leurs documents ou leurs actes de procédure ou d'autoriser la présentation d'éléments de preuve supplémentaires.

Ajournement

(5) L'ordonnance certifiant qu'il s'agit d'un recours collectif ne constitue pas une décision sur le fond de l'instance.

Ordonnance ne constituant pas une décision sur le fond

6 Le tribunal ne doit pas refuser de certifier qu'une instance est un recours collectif en se fondant uniquement sur l'un des motifs suivants :

Questions n'empêchant pas de faire certifier le recours collectif

1. Les mesures de redressement demandées comprennent une demande de dommages-intérêts qui exigerait, une fois les questions communes décidées, une évaluation individuelle.
2. Les mesures de redressement demandées portent sur des contrats distincts concernant différents membres du groupe.
3. Des mesures correctives différentes sont demandées pour différents membres du groupe.
4. Le nombre de membres du groupe ou l'identité de chaque membre est inconnu.
5. Il existe au sein du groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe.

7 S'il refuse de certifier qu'une instance est un recours collectif, le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties et, à cette fin, le tribunal peut :

Continuation de l'instance sous une autre forme après refus de certifier

- (a) order the addition, deletion or substitution of parties;
- (b) order the amendment of the pleadings or notice of application; and
- (c) make any further order that it considers appropriate.

Contents of
certification
order

8.—(1) An order certifying a proceeding as a class proceeding shall,

- (a) describe the class;
- (b) state the names of the representative parties;
- (c) state the nature of the claims or defences asserted on behalf of the class;
- (d) state the relief sought by or from the class;
- (e) set out the common issues for the class; and
- (f) specify the manner in which class members may opt out of the class proceeding and a date after which class members may not opt out.

Subclass
protection

(2) Where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, subsection (1) applies with necessary modifications in respect of the subclass.

Amendment
of certi-
fication order

(3) The court, on the motion of a party or class member, may amend an order certifying a proceeding as a class proceeding.

Opting out

9. Any member of a class involved in a class proceeding may opt out of the proceeding in the manner and within the time specified in the certification order.

Where it
appears
conditions for
certification
not satisfied

10.—(1) On the motion of a party or class member, where it appears to the court that the conditions mentioned in subsections 5 (1) and (2) are not satisfied with respect to a class proceeding, the court may amend the certification order, may decertify the proceeding or may make any other order it considers appropriate.

- a) ordonner la jonction, la radiation ou la substitution des parties;
- b) ordonner la modification des actes de procédure ou de l'avis de requête;
- c) rendre toute autre ordonnance qu'il estime appropriée.

8 (1) L'ordonnance certifiant que l'instance est un recours collectif :

Contenu de l'ordonnance

- a) décrit le groupe;
- b) indique le nom des représentants;
- c) indique la nature des demandes ou des défenses présentées au nom du groupe;
- d) indique les mesures de redressement demandées par le groupe ou au groupe;
- e) énonce les questions communes du groupe;
- f) précise la façon dont les membres du groupe peuvent se retirer du recours collectif et la date limite pour ce faire.

(2) S'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le paragraphe (1) s'applique, avec les adaptations nécessaires, au sous-groupe.

Protection du sous-groupe

(3) Le tribunal peut, sur motion présentée par une partie ou un membre du groupe, modifier l'ordonnance certifiant qu'une instance est un recours collectif.

Modification de l'ordonnance

9 Tout membre d'un groupe qui exerce un recours collectif peut s'en retirer de la façon et dans le délai précisés dans l'ordonnance certifiant le recours collectif.

Décision de se retirer

10 (1) S'il semble au tribunal saisi d'une motion d'une partie ou d'un membre du groupe que les conditions relatives au recours collectif qui sont mentionnées aux paragraphes 5 (1) et (2) n'ont pas été respectées, le tribunal peut modifier ou annuler l'ordonnance certifiant le recours collectif, ou rendre toute autre ordonnance qu'il estime appropriée.

Inobservation des conditions

Proceeding
may continue
in altered
form

(2) Where the court makes a decertification order under subsection (1), the court may permit the proceeding to continue as one or more proceedings between different parties.

Powers of
court

(3) For the purposes of subsections (1) and (2), the court has the powers set out in clauses 7 (a) to (c).

Stages of
class
proceedings

11.—(1) Subject to section 12, in a class proceeding,

- (a) common issues for a class shall be determined together;
- (b) common issues for a subclass shall be determined together; and
- (c) individual issues that require the participation of individual class members shall be determined individually in accordance with sections 24 and 25.

Separate
judgments

(2) The court may give judgment in respect of the common issues and separate judgments in respect of any other issue.

Court may
determine
conduct of
proceeding

12. The court, on the motion of a party or class member, may make any order it considers appropriate respecting the conduct of a class proceeding to ensure its fair and expeditious determination and, for the purpose, may impose such terms on the parties as it considers appropriate.

Court may
stay any
other
proceeding

13. The court, on its own initiative or on the motion of a party or class member, may stay any proceeding related to the class proceeding before it, on such terms as it considers appropriate.

Participation
of class
members

14.—(1) In order to ensure the fair and adequate representation of the interests of the class or any subclass or for any other appropriate reason, the court may, at any time in a class proceeding, permit one or more class members to participate in the proceeding.

Idem

(2) Participation under subsection (1) shall be in whatever manner and on whatever terms, including terms as to costs, the court considers appropriate.

Discovery of
parties

15.—(1) Parties to a class proceeding have the same rights of discovery under the rules of court against one another as they would have in any other proceeding.

(2) S'il rend une ordonnance d'annulation de l'ordonnance certifiant le recours collectif en vertu du paragraphe (1), le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties.

Continuation de l'instance sous une autre forme

(3) Pour l'application des paragraphes (1) et (2), le tribunal est investi des pouvoirs énoncés aux alinéas 7 a) à c).

Pouvoirs du tribunal

11 (1) Sous réserve de l'article 12, dans un recours collectif :

Organisation du recours collectif

a) les questions communes du groupe sont décidées ensemble;

b) les questions communes du sous-groupe sont décidées ensemble;

c) les questions individuelles nécessitant la participation, à titre individuel, de membres du groupe sont décidées individuellement, conformément aux articles 24 et 25.

(2) Le tribunal peut rendre un jugement sur les questions communes et des jugements distincts sur les autres questions en litige.

Jugements distincts

12 Le tribunal saisi d'une motion d'une partie ou d'un membre du groupe peut, afin de parvenir à un règlement juste et expéditif du recours collectif, rendre une ordonnance qu'il estime appropriée concernant le déroulement de celui-ci et imposer aux parties des conditions qu'il estime appropriées.

Ordonnance relative au déroulement de l'instance

13 Le tribunal peut, de sa propre initiative ou sur motion d'une partie ou d'un membre du groupe, surseoir à une instance liée au recours collectif en cours à des conditions qu'il estime appropriées.

Sursis des autres instances

14 (1) Afin de s'assurer que les intérêts du groupe ou d'un sous-groupe sont représentés de façon juste et appropriée ou pour toute autre raison valable, le tribunal peut, en tout temps au cours de l'instance, permettre à un ou plusieurs membres du groupe de participer à l'instance.

Participation des membres du groupe

(2) La participation prévue au paragraphe (1) est conforme à la façon et aux conditions, notamment en matière de dépens, que le tribunal estime appropriées.

Idem

15 (1) Les parties à un recours collectif ont les mêmes droits à l'enquête préalable qui sont prévus par les règles de pratique que si elles étaient parties à une autre instance.

Enquête préalable

Discovery of
class
members
with leave

(2) After discovery of the representative party, a party may move for discovery under the rules of court against other class members.

Idem

(3) In deciding whether to grant leave to discover other class members, the court shall consider,

- (a) the stage of the class proceeding and the issues to be determined at that stage;
- (b) the presence of subclasses;
- (c) whether the discovery is necessary in view of the claims or defences of the party seeking leave;
- (d) the approximate monetary value of individual claims, if any;
- (e) whether discovery would result in oppression or in undue annoyance, burden or expense for the class members sought to be discovered; and
- (f) any other matter the court considers relevant.

Idem

(4) A class member is subject to the same sanctions under the rules of court as a party for failure to submit to discovery.

Examination
of class
members
before a
motion or
application

16.—(1) A party shall not require a class member other than a representative party to be examined as a witness before the hearing of a motion or application, except with leave of the court.

Idem

(2) Subsection 15 (3) applies with necessary modifications to a decision whether to grant leave under subsection (1).

Notice of
certification

17.—(1) Notice of certification of a class proceeding shall be given by the representative party to the class members in accordance with this section.

Court may
dispense with
notice

(2) The court may dispense with notice if, having regard to the factors set out in subsection (3), the court considers it appropriate to do so.

(2) Après avoir interrogé au préalable le représentant, une partie peut demander, par voie de motion, de procéder à l'interrogatoire préalable d'autres membres du groupe aux termes des règles de pratique.

Interrogatoire
préalable avec
autorisation

(3) Afin de décider s'il accordera ou non l'autorisation d'interroger au préalable d'autres membres du groupe, le tribunal tient compte des points suivants :

Idem

- a) l'étape du recours collectif et les questions en litige à décider à cette étape;
- b) l'existence de sous-groupes;
- c) la nécessité de l'interrogatoire préalable, compte tenu des demandes ou des défenses de la partie qui demande l'autorisation;
- d) la valeur pécuniaire approximative des demandes individuelles, le cas échéant;
- e) la question de savoir si l'interrogatoire préalable pourrait entraîner, pour les membres du groupe qu'une partie cherche à interroger, des conséquences telles que l'oppression ou des désagréments, un fardeau ou des dépenses injustifiés;
- f) toute autre question que le tribunal estime pertinente.

(4) Les membres du groupe sont passibles des sanctions prévues par les règles de pratique pour les parties qui ne se soumettent pas à l'interrogatoire préalable.

Idem

16 (1) Les parties ne peuvent pas exiger qu'un membre du groupe, à l'exception du représentant, soit interrogé comme témoin avant l'audition d'une motion ou d'une requête, sauf avec l'autorisation du tribunal.

Interrogatoire
précédant
l'audition de
la motion ou
de la requête

(2) Le paragraphe 15 (3) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (1).

Idem

17 (1) Le représentant donne aux membres du groupe un avis les informant que le recours collectif est certifié, conformément au présent article.

Avis annon-
çant que le
recours collec-
tif est certifié

(2) Le tribunal peut dispenser le représentant de l'obligation de donner l'avis s'il estime que cela s'impose, compte tenu des points énumérés au paragraphe (3).

Dispense du
tribunal

Order
respecting
notice

(3) The court shall make an order setting out when and by what means notice shall be given under this section and in so doing shall have regard to,

- (a) the cost of giving notice;
- (b) the nature of the relief sought;
- (c) the size of the individual claims of the class members;
- (d) the number of class members;
- (e) the places of residence of class members; and
- (f) any other relevant matter.

Idem

(4) The court may order that notice be given,

- (a) personally or by mail;
- (b) by posting, advertising, publishing or leafleting;
- (c) by individual notice to a sample group within the class; or
- (d) by any means or combination of means that the court considers appropriate.

Idem

(5) The court may order that notice be given to different class members by different means.

Contents of
notice

(6) Notice under this section shall, unless the court orders otherwise,

- (a) describe the proceeding, including the names and addresses of the representative parties and the relief sought;
- (b) state the manner by which and time within which class members may opt out of the proceeding;
- (c) describe the possible financial consequences of the proceeding to class members;
- (d) summarize any agreements between representative parties and their solicitors respecting fees and disbursements;

(3) Le tribunal indique, par ordonnance, quand et selon quels modes l'avis visé au présent article est donné et, ce faisant, il tient compte des points suivants :

Ordonnance
relative à
l'avis

- a) le coût de l'avis;
- b) la nature des mesures de redressement demandées;
- c) l'importance des demandes individuelles des membres du groupe;
- d) le nombre de membres du groupe;
- e) le lieu de résidence des membres du groupe;
- f) toute autre question pertinente.

(4) Le tribunal peut ordonner que l'avis soit donné :

Idem

- a) à personne ou par la poste;
- b) par voie d'affichage ou de publication, par annonce publicitaire ou par prospectus;
- c) sous forme d'avis personnel donné à un échantillon représentatif du groupe;
- d) selon un ou plusieurs modes que le tribunal estime appropriés.

(5) Le tribunal peut ordonner que l'avis soit donné à différents membres du groupe selon différents modes.

Idem

(6) Sauf ordonnance contraire du tribunal, l'avis visé au présent article doit :

Contenu de
l'avis

- a) décrire l'instance, notamment indiquer les nom et adresse des représentants et les mesures de redressement demandées;
- b) indiquer la façon dont les membres de groupe peuvent se retirer de l'instance et la date limite pour ce faire;
- c) décrire les conséquences financières possibles de l'instance pour les membres du groupe;
- d) décrire brièvement les ententes relatives aux honoraires et aux débours qui ont été conclues par les représentants et leurs procureurs;

- (e) describe any counterclaim being asserted by or against the class, including the relief sought in the counterclaim;
- (f) state that the judgment, whether favourable or not, will bind all class members who do not opt out of the proceeding;
- (g) describe the right of any class member to participate in the proceeding;
- (h) give an address to which class members may direct inquiries about the proceeding; and
- (i) give any other information the court considers appropriate.

Solicitations
of contri-
butions

(7) With leave of the court, notice under this section may include a solicitation of contributions from class members to assist in paying solicitor's fees and disbursements.

Notice where
individual
participation
is required

18.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, the representative party shall give notice to those members in accordance with this section.

Idem

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

Contents of
notice

(3) Notice under this section shall,

- (a) state that common issues have been determined in favour of the class;
- (b) state that class members may be entitled to individual relief;
- (c) describe the steps to be taken to establish an individual claim;
- (d) state that failure on the part of a class member to take those steps will result in the member not being entitled to assert an individual claim except with leave of the court;

- e) décrire les demandes reconventionnelles présentées par le groupe ou contre le groupe, y compris les mesures de redressement qui y sont demandées;
- f) préciser que le jugement, qu'il soit favorable ou défavorable, liera tous les membres du groupe qui ne se retirent pas de l'instance;
- g) préciser le droit qu'a chaque membre du groupe de participer à l'instance;
- h) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance;
- i) donner tous les autres renseignements que le tribunal estime appropriés.

(7) Avec l'autorisation du tribunal, l'avis visé au présent article peut comprendre une demande de contribution adressée aux membres du groupe en vue du paiement des honoraires et des débours du procureur.

Demande de contribution

18 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, le représentant en donne avis aux membres concernés conformément au présent article.

Avis relatif à la participation de membres à titre individuel

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

Idem

(3) L'avis visé au présent article doit :

Contenu de l'avis

- a) préciser que les questions communes ont été décidées en faveur du groupe;
- b) indiquer que les membres du groupe peuvent avoir droit à des mesures de redressement individuelles;
- c) décrire les mesures à prendre pour faire valoir des demandes individuelles;
- d) indiquer que faute de prendre ces mesures, les membres du groupe perdent le droit de présenter des demandes individuelles, sauf avec l'autorisation du tribunal;

- (e) give an address to which class members may direct inquiries about the proceeding; and
- (f) give any other information that the court considers appropriate.

Notice to
protect
interests of
affected
persons

19.—(1) At any time in a class proceeding, the court may order any party to give such notice as it considers necessary to protect the interests of any class member or party or to ensure the fair conduct of the proceeding.

Idem

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

Approval of
notice by the
court

20. A notice under section 17, 18 or 19 shall be approved by the court before it is given.

Delivery of
notice

21. The court may order a party to deliver, by whatever means are available to the party, the notice required to be given by another party under section 17, 18 or 19, where that is more practical.

Costs of
notice

22.—(1) The court may make any order it considers appropriate as to costs of notice under section 17, 18 or 19, including an order apportioning costs among parties.

Idem

(2) In making an order under subsection (1), the court may have regard to the different interests of a subclass.

Statistical
evidence

23.—(1) For the purposes of determining issues relating to the amount or distribution of a monetary award under this Act, the court may admit as evidence statistical information that would not otherwise be admissible as evidence, including information derived from sampling, if the information was compiled in accordance with principles that are generally accepted by experts in the field of statistics.

Idem

(2) A record of statistical information purporting to be prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada may be admitted as evidence without proof of its authenticity.

Notice

(3) Statistical information shall not be admitted as evidence under this section unless the party seeking to introduce the information has,

e) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance;

f) donner tous les autres renseignements que le tribunal estime appropriés.

19 (1) Le tribunal peut, en tout temps au cours de l'instance, ordonner à une partie de donner l'avis qu'il estime nécessaire à la protection des intérêts d'un membre du groupe ou d'une partie et à la conduite équitable de l'instance.

Avis relatif à la protection des personnes concernées

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

Idem

20 L'avis visé à l'article 17, 18 ou 19 doit être approuvé par le tribunal avant d'être donné.

Approbation de l'avis par le tribunal

21 Le tribunal peut, pour des raisons de commodité, ordonner à une partie de remettre, par tout moyen dont elle dispose, l'avis qui doit être donné par une autre partie aux termes de l'article 17, 18 ou 19.

Remise de l'avis

22 (1) Le tribunal peut rendre l'ordonnance relative au coût de l'avis visé à l'article 17, 18 ou 19 qu'il estime appropriée, y compris une ordonnance répartissant le coût entre les parties.

Coût de l'avis

(2) Le tribunal qui rend une ordonnance en vertu du paragraphe (1) peut tenir compte des intérêts différents d'un sous-groupe.

Idem

23 (1) Afin de décider les questions en litige qui ont trait à la valeur ou à la distribution d'un montant adjugé aux termes de la présente loi, le tribunal peut admettre en preuve des données statistiques qui ne seraient pas admissibles en preuve autrement, obtenues notamment par échantillonnage, si les statistiques ont été établies conformément aux principes généralement reconnus par les statisticiens.

Données statistiques

(2) Tout document qui montre des données statistiques qui se présentent comme étant élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada peut être admis en preuve sans attestation de son authenticité.

Idem

(3) Les données statistiques ne sont admises en preuve en vertu du présent article que si la partie qui cherche à les produire :

Avis

- (a) given reasonable notice of it to the party against whom it is to be used, together with a copy of the information;
- (b) complied with subsections (4) and (5); and
- (c) complied with any requirement to produce documents under subsection (7).

Contents of
notice

(4) Notice under this section shall specify the source of any statistical information sought to be introduced that,

- (a) was prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada;
- (b) was derived from market quotations, tabulations, lists, directories or other compilations generally used and relied on by members of the public; or
- (c) was derived from reference material generally used and relied on by members of an occupational group.

Idem

(5) Except with respect to information referred to in subsection (4), notice under this section shall,

- (a) specify the name and qualifications of each person who supervised the preparation of statistical information sought to be introduced; and
- (b) describe any documents prepared or used in the course of preparing the statistical information sought to be introduced.

Cross-exami-
nation

(6) A party against whom statistical information is sought to be introduced under this section may require, for the purposes of cross-examination, the attendance of any person who supervised the preparation of the information.

Production of
documents

(7) Except with respect to information referred to in subsection (4), a party against whom statistical information is sought to be introduced under this section may require the party seeking to introduce it to produce for inspection any document that was prepared or used in the course of preparing the information, unless the document discloses the identity

- a) en a donné un avis raisonnable à la partie contre laquelle elle entend les utiliser, ainsi qu'une copie des données;
- b) s'est conformée aux paragraphes (4) et (5);
- c) s'est conformée à l'obligation de produire des documents prévue au paragraphe (7).

(4) L'avis visé au présent article précise la source des données statistiques qu'une partie cherche à produire et qui :

Contenu de l'avis

- a) ont été élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada;
- b) proviennent de cours du marché, de tableaux, de listes, de répertoires ou d'autres recueils que consulte couramment le grand public et qu'il considère comme fiables;
- c) proviennent de documents de référence que consultent couramment les membres d'un groupe professionnel et qu'ils considèrent comme fiables.

(5) Sauf pour les données mentionnées au paragraphe (4), l'avis visé au présent article contient les renseignements suivants :

Idem

- a) les nom et qualités de chaque personne qui a surveillé l'élaboration des données statistiques qu'une partie cherche à produire;
- b) une description des documents rédigés ou ayant servi à l'élaboration des données statistiques qu'une partie cherche à produire.

(6) La partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander, aux fins du contre-interrogatoire, que soient présentes les personnes ayant surveillé l'élaboration des données.

Contre-interrogatoire

(7) Sauf pour les données mentionnées au paragraphe (4), la partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander à la partie qui cherche à les produire, afin de les examiner, les documents qui ont été rédigés ou qui ont servi à l'élaboration des données, à moins que les documents ne divulguent l'identité des personnes ayant répondu dans le

Production de documents

of persons responding to a survey who have not consented in writing to the disclosure.

Aggregate
assessment of
monetary
relief

24.—(1) The court may determine the aggregate or a part of a defendant's liability to class members and give judgment accordingly where,

- (a) monetary relief is claimed on behalf of some or all class members;
- (b) no questions of fact or law other than those relating to the assessment of monetary relief remain to be determined in order to establish the amount of the defendant's monetary liability; and
- (c) the aggregate or a part of the defendant's liability to some or all class members can reasonably be determined without proof by individual class members.

Average or
proportional
application

(2) The court may order that all or a part of an award under subsection (1) be applied so that some or all individual class members share in the award on an average or proportional basis.

When court
may make
order under
subs. (2)

(3) The court may make an order under subsection (2) whether or not all class members can be identified or all of their shares can be exactly determined.

Idem

(4) The court may make an order under subsection (2) even if the order would benefit,

- (a) persons who are not class members; or
- (b) persons who may otherwise receive monetary relief as a result of the class proceeding.

Court to
determine
whether
individual
claims need
to be made

(5) When the court orders that all or a part of an award under subsection (1) be divided among individual class members, the court shall determine whether individual claims need to be made to give effect to the order.

cadre d'une enquête qui n'ont pas consenti par écrit à ce que leur identité soit divulguée.

24 (1) Le tribunal peut établir la totalité ou une partie de la responsabilité d'un défendeur envers les membres du groupe et rendre un jugement en conséquence, si :

Évaluation
totale des
mesures de
redressement
pécuniaire

- a) les mesures de redressement pécuniaire sont demandées au nom de certains membres ou de tous les membres du groupe;
- b) seules les questions de fait ou de droit se rapportant à l'évaluation des mesures de redressement pécuniaire restent à être décidées afin de fixer le montant correspondant à la responsabilité financière du défendeur;
- c) la totalité ou une partie de la responsabilité du défendeur envers certains membres ou tous les membres du groupe peut raisonnablement être établie sans que des membres du groupe aient à en faire la preuve individuellement.

(2) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit affectée de façon que certains membres ou tous les membres du groupe se partagent le montant adjugé selon la règle de la moyenne ou selon celle de la proportionnalité.

Règle de la
moyenne ou
règle de la
proportionna-
lité

(3) Le tribunal peut rendre une ordonnance en vertu du paragraphe (2), que tous les membres du groupe soient identifiables ou non, ou que la part de chacun d'eux puisse être ou non établie exactement.

Ordonnance
visée au
par. (2)

(4) Le tribunal peut rendre une ordonnance en vertu du paragraphe (2), même si cette ordonnance devait profiter :

Idem

- a) à des personnes qui ne sont pas membres du groupe;
- b) à des personnes qui peuvent autrement bénéficier de mesures de redressement pécuniaire en raison du recours collectif.

(5) Le tribunal qui ordonne que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit répartie entre des membres du groupe pris individuellement décide en même temps s'il est nécessaire de présenter des demandes individuelles pour que l'ordonnance porte ses effets.

Présentation
des demandes
individuelles

Procedures
for
determining
claims

(6) Where the court determines under subsection (5) that individual claims need to be made, the court shall specify procedures for determining the claims.

Idem

(7) In specifying procedures under subsection (6), the court shall minimize the burden on class members and, for the purpose, the court may authorize,

- (a) the use of standardized proof of claim forms;
- (b) the receipt of affidavit or other documentary evidence; and
- (c) the auditing of claims on a sampling or other basis.

Time limits
for making
claims

(8) When specifying procedures under subsection (6), the court shall set a reasonable time within which individual class members may make claims under this section.

Idem

(9) A class member who fails to make a claim within the time set under subsection (8) may not later make a claim under this section except with leave of the court.

Extension of
time

(10) The court may give leave under subsection (9) if it is satisfied that,

- (a) there are apparent grounds for relief;
- (b) the delay was not caused by any fault of the person seeking the relief; and
- (c) the defendant would not suffer substantial prejudice if leave were given.

Court may
amend subs.
(1) judgment

(11) The court may amend a judgment given under subsection (1) to give effect to a claim made with leave under subsection (9) if the court considers it appropriate to do so.

Individual
issues

25.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, other than those that may be determined under section 24, the court may,

(6) S'il décide, aux termes du paragraphe (5), qu'il est nécessaire de présenter des demandes individuelles, le tribunal précise la procédure à suivre pour décider les demandes.

Procédure
pour décider
les demandes

(7) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (6) rend la tâche des membres du groupe aussi facile que possible et peut, à cette fin, autoriser :

Idem

- a) l'emploi de formules normalisées de preuve des demandes;
- b) la réception d'affidavits ou d'autres éléments de preuve documentaire;
- c) la vérification des demandes, notamment par échantillonnage.

(8) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (6) fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.

Délai de pré-
sentation des
demandes

(9) Les membres du groupe qui ne présentent pas de demande dans le délai fixé aux termes du paragraphe (8) ne peuvent en présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.

Idem

(10) Le tribunal peut accorder l'autorisation visée au paragraphe (9) s'il est convaincu :

Prorogation

- a) qu'il existe des motifs apparents d'accorder l'autorisation;
- b) que le retard n'est pas dû à une faute de la personne qui demande l'autorisation;
- c) que l'autorisation ne causerait pas de préjudice grave au défendeur.

(11) Le tribunal peut, s'il estime que cela est approprié, modifier un jugement rendu en vertu du paragraphe (1) pour faire droit à une demande présentée avec une autorisation aux termes du paragraphe (9).

Le tribunal
peut modifier
le jugement

25 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, à l'exception de celles qui peuvent être décidées aux termes de l'article 24, le tribunal peut :

Questions
individuelles

- (a) determine the issues in further hearings presided over by the judge who determined the common issues or by another judge of the court;
- (b) appoint one or more persons to conduct a reference under the rules of court and report back to the court; and
- (c) with the consent of the parties, direct that the issues be determined in any other manner.

Directions as
to procedure

(2) The court shall give any necessary directions relating to the procedures to be followed in conducting hearings, inquiries and determinations under subsection (1), including directions for the purpose of achieving procedural conformity.

Idem

(3) In giving directions under subsection (2), the court shall choose the least expensive and most expeditious method of determining the issues that is consistent with justice to class members and the parties and, in so doing, the court may,

- (a) dispense with any procedural step that it considers unnecessary; and
- (b) authorize any special procedural steps, including steps relating to discovery, and any special rules, including rules relating to admission of evidence and means of proof, that it considers appropriate.

Time limits
for making
claims

(4) The court shall set a reasonable time within which individual class members may make claims under this section.

Idem

(5) A class member who fails to make a claim within the time set under subsection (4) may not later make a claim under this section except with leave of the court.

Extension of
time

(6) Subsection 24 (11) applies with necessary modifications to a decision whether to give leave under subsection (5).

Determi-
nation under
cl. (1) (c)
deemed court
order

(7) A determination under clause (1) (c) is deemed to be an order of the court.

- a) décider les questions en litige dans d'autres audiences présidées par le juge qui a décidé les questions communes ou par un autre juge du tribunal;
- b) charger une ou plusieurs personnes de conduire un renvoi aux termes des règles de pratique et de présenter un rapport au tribunal;
- c) avec le consentement des parties, ordonner que les questions en litige soient décidées d'une autre façon.

(2) Le tribunal donne les directives nécessaires en matière de procédure à suivre pour le déroulement des audiences et des enquêtes et la prise des décisions visées au paragraphe (1), y compris des directives visant à assurer le respect de la procédure.

Directives
relatives à la
procédure

(3) Le tribunal qui donne des directives aux termes du paragraphe (2) choisit le mode de décision des questions en litige le moins onéreux et le plus expéditif qui rend justice aux membres du groupe et aux parties et, à cette fin, il peut :

Idem

- a) passer outre à une mesure procédurale qu'il estime inutile;
- b) autoriser des mesures procédurales particulières, notamment en matière d'interrogatoire préalable, et des règles particulières, notamment en matière d'admission de la preuve et des moyens de preuve, qu'il estime appropriées.

(4) Le tribunal fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.

Délai de pré-
sentation des
demandes

(5) Les membres du groupe qui ne présentent pas de demande pendant le délai fixé aux termes du paragraphe (4) ne peuvent en présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.

Idem

(6) Le paragraphe 24 (11) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (5).

Prorogation
du délai

(7) La décision visée à l'alinéa (1) c) est réputée une ordonnance judiciaire.

Décision répu-
tée une
ordonnance
judiciaire

Judgment
distribution

26.—(1) The court may direct any means of distribution of amounts awarded under section 24 or 25 that it considers appropriate.

Idem

(2) In giving directions under subsection (1), the court may order that,

- (a) the defendant distribute directly to class members the amount of monetary relief to which each class member is entitled by any means authorized by the court, including abatement and credit;
- (b) the defendant pay into court or some other appropriate depository the total amount of the defendant's liability to the class until further order of the court; and
- (c) any person other than the defendant distribute directly to class members the amount of monetary relief to which each member is entitled by any means authorized by the court.

Idem

(3) The court may order that all or a part of an award under section 24 be applied in any manner that may reasonably be expected to benefit class members, even though the order does not provide for monetary relief to individual class members.

Idem

(4) In deciding whether to make an order under clause (2) (a), the court shall consider whether distribution by the defendant is the most practical way of distributing the award for any reason, including the fact that the amount of monetary relief to which each class member is entitled can be determined from the records of the defendant.

Idem

(5) The court may make an order under subsection (3) whether or not all class members can be identified or all of their shares can be exactly determined.

Idem

(6) The court may make an order under subsection (3) even if the order would benefit,

- (a) persons who are not class members; or

26 (1) Le tribunal peut ordonner que les montants adjugés aux termes de l'article 24 ou 25 soient distribués de la façon qu'il estime appropriée. Distribution

(2) Le tribunal qui donne les directives en vertu du paragraphe (1) peut ordonner : Idem

- a) au défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe de la façon autorisée par le tribunal, y compris sous forme de réduction ou de crédit;
- b) au défendeur de consigner au tribunal ou auprès d'un autre dépositaire approprié le total du montant correspondant à la responsabilité du défendeur envers le groupe, jusqu'à nouvelle ordonnance du tribunal;
- c) à toute personne qui n'est pas le défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre de la façon autorisée par le tribunal.

(3) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes de l'article 24 soit affectée d'une façon dont il est raisonnable de s'attendre qu'elle profite aux membres du groupe, même si l'ordonnance ne prévoit pas de mesures de redressement pécuniaire pour les membres du groupe pris individuellement. Idem

(4) Le tribunal qui décide s'il y a lieu de rendre une ordonnance aux termes de l'alinéa (2) a) examine si la façon la plus pratique de distribuer le montant adjugé est de confier cette tâche au défendeur, étant donné notamment qu'il est possible de déterminer d'après les dossiers du défendeur le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe. Idem

(5) Le tribunal peut rendre une ordonnance en vertu du paragraphe (3), que tous les membres du groupe soient identifiables ou non, ou que la part de chacun d'eux puisse être ou non établie exactement. Idem

(6) Le tribunal peut rendre une ordonnance en vertu du paragraphe (3), même si cette ordonnance profiterait : Idem

- a) à des personnes qui ne sont pas membres du groupe;

- (b) persons who may otherwise receive monetary relief as a result of the class proceeding.

Supervisory
role of the
court

(7) The court shall supervise the execution of judgments and the distribution of awards under section 24 or 25 and may stay the whole or any part of an execution or distribution for a reasonable period on such terms as it considers appropriate.

Payment of
awards

(8) The court may order that an award made under section 24 or 25 be paid,

- (a) in a lump sum, forthwith or within a time set by the court; or
- (b) in instalments, on such terms as the court considers appropriate.

Costs of
distribution

(9) The court may order that the costs of distribution of an award under section 24 or 25, including the costs of notice associated with the distribution and the fees payable to a person administering the distribution, be paid out of the proceeds of the judgment or may make such other order as it considers appropriate.

Return of
unclaimed
amounts

(10) Any part of an award for division among individual class members that remains unclaimed or otherwise undistributed after a time set by the court shall be returned to the party against whom the award was made, without further order of the court.

Contents of
judgment on
common
issues

27.—(1) A judgment on common issues of a class or subclass shall,

- (a) set out the common issues;
- (b) name or describe the class or subclass members;
- (c) state the nature of the claims or defences asserted on behalf of the class or subclass; and
- (d) specify the relief granted.

Effect of
judgment on
common
issues

(2) A judgment on common issues of a class or subclass does not bind,

- b) à des personnes qui peuvent autrement bénéficier de mesures de redressement pécuniaire en raison du recours collectif.

(7) Le tribunal surveille l'exécution des jugements et la distribution des montants adjugés aux termes de l'article 24 ou 25 et peut surseoir en totalité ou en partie à une exécution ou à une distribution pendant une période raisonnable aux conditions qu'il estime appropriées.

Surveillance
par le tribunal

(8) Le tribunal peut ordonner qu'un montant adjugé aux termes de l'article 24 ou 25 soit payé, selon le cas :

Paiement des
montants
adjugés

- a) sous forme d'une somme globale, sans délai ou dans le délai imparti par le tribunal;
- b) en plusieurs versements, aux conditions que le tribunal estime appropriées.

(9) Le tribunal peut ordonner que les frais de distribution du montant adjugé aux termes de l'article 24 ou 25, y compris les frais d'avis liés à la distribution et la rémunération de la personne chargée de la distribution, soient prélevés sur le produit du jugement, ou peut rendre l'ordonnance qu'il estime appropriée.

Frais de
distribution

(10) Toute partie d'un montant adjugé, destiné à être réparti entre des membres du groupe pris individuellement, qui n'est pas réclamée ou autrement distribuée à l'expiration d'un délai fixé par le tribunal est rendue à la partie contre laquelle le jugement a été rendu, sans autre ordonnance du tribunal.

Remise des
sommes non
réclamées

27 (1) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe :

Contenu du
jugement sur
les questions
communes

- a) énonce les questions communes;
- b) donne le nom des membres du groupe ou du sous-groupe, ou les décrit;
- c) expose la nature des demandes ou des défenses présentées au nom du groupe ou du sous-groupe;
- d) précise les mesures de redressement accordées.

(2) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe ne lie pas :

Effet du juge-
ment sur les
questions
communes

- (a) a person who has opted out of the class proceeding;
or
- (b) a party to the class proceeding in any subsequent proceeding between the party and a person mentioned in clause (a).

Idem

(3) A judgment on common issues of a class or subclass binds every class member who has not opted out of the class proceeding, but only to the extent that the judgment determines common issues that,

- (a) are set out in the certification order;
- (b) relate to claims or defences described in the certification order; and
- (c) relate to relief sought by or from the class or subclass as stated in the certification order.

Limitations

28.—(1) Subject to subsection (2), any limitation period applicable to a cause of action asserted in a class proceeding is suspended in favour of a class member on the commencement of the proceeding and resumes running against the class member when,

- (a) the member opts out of the class proceeding;
- (b) an amendment that has the effect of excluding the member from the class is made to the certification order;
- (c) a decertification order is made under section 10;
- (d) the class proceeding is dismissed without an adjudication on the merits;
- (e) the class proceeding is abandoned or discontinued with the approval of the court; or
- (f) the class proceeding is settled with the approval of the court, unless the settlement provides otherwise.

Idem

(2) Where there is a right of appeal in respect of an event described in clauses (1) (a) to (f), the limitation period resumes running as soon as the time for appeal has expired without an appeal being commenced or as soon as any appeal has been finally disposed of.

- a) les personnes qui se sont retirées du recours collectif;
- b) les parties au recours collectif qui participent à une instance subséquente entre les personnes mentionnées à l'alinéa a) et elles.

(3) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe lie chaque membre du groupe qui ne s'est pas retiré du recours collectif, mais seulement dans la mesure où le jugement décide les questions communes qui : Idem

- a) figurent dans l'ordonnance certifiant le recours collectif;
- b) se rapportent aux demandes ou aux défenses décrites dans l'ordonnance certifiant le recours collectif;
- c) se rapportent aux mesures de redressement demandées par le groupe ou le sous-groupe ou contre le groupe ou le sous-groupe, qui figurent dans l'ordonnance certifiant le recours collectif.

28 (1) Sous réserve du paragraphe (2), tout délai de prescription applicable à une cause d'action invoquée dans un recours collectif est suspendue en faveur d'un membre du groupe à l'introduction de l'instance et reprend au détriment du membre au moment où, selon le cas : Prescription

- a) ce membre se retire du recours collectif;
- b) est apportée une modification de l'ordonnance certifiant le recours collectif qui a pour effet d'exclure du groupe le membre;
- c) une ordonnance annulant l'ordonnance certifiant le recours collectif est rendue en vertu de l'article 10;
- d) le recours collectif est rejeté sans décision sur le fond;
- e) il y a désistement du recours collectif avec l'approbation du tribunal;
- f) le recours collectif fait l'objet d'une transaction avec l'approbation du tribunal, à moins que la transaction ne prévoie autre chose.

(2) Lorsqu'il existe un droit d'appel à l'égard d'un des événements décrits aux alinéas (1) a) à f), le délai de prescrip- Idem

Discontin-
uance and
abandonment

29.—(1) A proceeding commenced under this Act and a proceeding certified as a class proceeding under this Act may be discontinued or abandoned only with the approval of the court, on such terms as the court considers appropriate.

Settlement
without court
approval not
binding

(2) A settlement of a class proceeding is not binding unless approved by the court.

Effect of
settlement

(3) A settlement of a class proceeding that is approved by the court binds all class members.

Notice:
dismissal,
discontin-
uance,
abandonment
or settlement

(4) In dismissing a proceeding for delay or in approving a discontinuance, abandonment or settlement, the court shall consider whether notice should be given under section 19 and whether any notice should include,

- (a) an account of the conduct of the proceeding;
- (b) a statement of the result of the proceeding; and
- (c) a description of any plan for distributing settlement funds.

Appeals:
refusals to
certify and
decertifi-
cation orders

30.—(1) A party may appeal to the Divisional Court from an order refusing to certify a proceeding as a class proceeding and from an order decertifying a proceeding.

Appeals:
certification
orders

(2) A party may appeal to the Divisional Court from an order certifying a proceeding as a class proceeding, with leave of the Ontario Court (General Division) as provided in the rules of court.

Appeals:
judgments on
common
issues and
aggregate
awards

(3) A party may appeal to the Court of Appeal from a judgment on common issues and from an order under section 24, other than an order that determines individual claims made by class members.

Appeals by
class
members on
behalf of the
class

(4) If a representative party does not appeal or seek leave to appeal as permitted by subsection (1) or (2), or if a representative party abandons an appeal under subsection (1) or (2), any class member may make a motion to the court for leave to act as the representative party for the purposes of the relevant subsection.

tion reprend dès l'expiration du délai d'appel, si aucun appel n'a été introduit, ou dès le règlement d'un appel.

29 (1) Il ne peut y avoir désistement des instances introduites dans le cadre de la présente loi et des instances certifiées comme recours collectifs aux termes de la présente loi qu'avec l'approbation du tribunal et qu'aux conditions que celui-ci estime appropriées.

Désistement

(2) La transaction obtenue dans le cadre d'un recours collectif ne lie les parties que si elle est homologuée par le tribunal.

Obligation de faire homologuer la transaction

(3) La transaction obtenue dans le cadre d'un recours collectif qui est homologuée par le tribunal lie tous les membres du groupe.

Effet de la transaction

(4) Le tribunal qui rejette une instance pour cause de retard, qui approuve le désistement ou qui homologue la transaction examine s'il y a lieu de donner un avis aux termes de l'article 19 et si l'avis devrait comprendre :

Avis en cas de rejet, de désistement ou de transaction

a) un compte rendu du déroulement de l'instance;

b) une déclaration relative à l'issue de l'instance;

c) une description du plan de distribution des sommes faisant l'objet de la transaction.

30 (1) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance refusant de certifier qu'une instance est un recours collectif ou d'une ordonnance annulant l'ordonnance certifiant un recours collectif.

Appel en cas de refus de certifier et d'ordonnance annulant l'ordonnance certifiant un recours collectif

(2) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance certifiant qu'une instance est un recours collectif avec l'autorisation de la Cour de l'Ontario (Division générale) comme le prévoient les règles de pratique.

Appel en cas d'ordonnance certifiant un recours collectif

(3) Une partie peut interjeter appel devant la Cour d'appel d'un jugement rendu sur les questions communes et d'une ordonnance rendue aux termes de l'article 24, à l'exclusion d'une ordonnance qui décide les demandes individuelles présentées par les membres du groupe.

Appel relatif aux questions communes

(4) Si le représentant n'interjette pas appel ou ne demande pas l'autorisation d'interjeter appel en vertu du paragraphe (1) ou (2) ou s'il se désiste de l'appel visé au paragraphe (1)

Appel par les membres du groupe au nom du groupe

Idem

(5) If a representative party does not appeal as permitted by subsection (3), or if a representative party abandons an appeal under subsection (3), any class member may make a motion to the Court of Appeal for leave to act as the representative party for the purposes of subsection (3).

Appeals:
individual
awards

(6) A class member may appeal to the Divisional Court from an order under section 24 or 25 determining an individual claim made by the member and awarding more than \$3,000 to the member.

Idem

(7) A representative plaintiff may appeal to the Divisional Court from an order under section 24 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(8) A defendant may appeal to the Divisional Court from an order under section 25 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(9) With leave of the Ontario Court (General Division) as provided in the rules of court, a class member may appeal to the Divisional Court from an order under section 24 or 25,

- (a) determining an individual claim made by the member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by the member for monetary relief.

Idem

(10) With leave of the Ontario Court (General Division) as provided in the rules of court, a representative plaintiff may appeal to the Divisional Court from an order under section 24,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

ou (2), un membre du groupe peut demander au tribunal, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe pertinent.

(5) Si le représentant n'interjette pas appel en vertu du paragraphe (3) ou s'il se désiste de l'appel visé au paragraphe (3), un membre du groupe peut demander à la Cour d'appel, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe (3). Idem

(6) Tout membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui décide sa demande individuelle et qui lui accorde plus de 3 000 \$. Appel relatif aux montants individuels

(7) Le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$. Idem

(8) Le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$. Idem

(9) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, un membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui, selon le cas : Idem

- a) décide la demande individuelle présentée par le membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par le membre.

(10) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui, selon le cas : Idem

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

Idem

(11) With leave of the Ontario Court (General Division) as provided in the rules of court, a defendant may appeal to the Divisional Court from an order under section 25,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

Costs

1984, c. 11

31.—(1) In exercising its discretion with respect to costs under subsection 141 (1) of the *Courts of Justice Act, 1984*, the court may consider whether the class proceeding was a test case, raised a novel point of law or involved a matter of public interest.

Liability of
class
members for
costs

(2) Class members, other than the representative party, are not liable for costs except with respect to the determination of their own individual claims.

Small claims

(3) Where an individual claim under section 24 or 25 is within the monetary jurisdiction of the Small Claims Court, costs related to the determination of the individual claim shall be determined as if the claim had been determined by the Small Claims Court.

Agreements
respecting
fees and
disbursements

32.—(1) An agreement respecting fees and disbursements between a solicitor and a representative party shall be in writing and shall,

- (a) state the terms under which fees and disbursements shall be paid;
- (b) give an estimate of the expected fee, whether contingent on success in the class proceeding or not; and
- (c) state the method by which payment is to be made, whether by lump sum, salary or otherwise.

Court to
approve
agreements

(2) An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court, on the motion of the solicitor.

Priority of
amounts
owed under
approved
agreement

(3) Amounts owing under an enforceable agreement are a first charge on any settlement funds or monetary award.

(11) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui, selon le cas :

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

31 (1) Le tribunal peut, dans l'exercice de son pouvoir discrétionnaire d'adjudication des dépens visé au paragraphe 141 (1) de la *Loi de 1984 sur les tribunaux judiciaires*, examiner si le recours collectif était une cause type, soulevait un nouveau point de droit ou posait une question d'intérêt public.

(2) Les membres du groupe, à l'exception du représentant, ne sont pas redevables des dépens, sauf à l'égard des demandes individuelles.

(3) Si les demandes individuelles visées à l'article 24 ou 25 ne dépassent pas la limite pécuniaire de la compétence d'attribution de la Cour des petites créances, les dépens qui se rapportent à la décision des demandes individuelles sont fixés comme si les demandes avaient été décidées par la Cour des petites créances.

32 (1) L'entente relative aux honoraires et aux débours entre le procureur et le représentant est conclue par écrit :

- a) indique les modalités de paiement des honoraires et des débours;
- b) donne une estimation des honoraires prévus, qu'ils soient subordonnés à l'issue favorable du recours collectif ou non;
- c) indique le mode de paiement choisi, notamment sous forme de somme globale ou de salaire.

(2) L'entente conclue entre le procureur et le représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal saisi d'une motion à cet effet.

(3) Les sommes dues aux termes d'une entente opposable constituent une charge de premier rang sur les sommes qui font l'objet d'une transaction ou sur le montant adjugé.

Determi-
nation of
fees where
agreement
not approved

(4) If an agreement is not approved by the court, the court may,

- (a) determine the amount owing to the solicitor in respect of fees and disbursements;
- (b) direct a reference under the rules of court to determine the amount owing; or
- (c) direct that the amount owing be determined in any other manner.

Agreements
for payment
only in the
event of
success
R.S.O. 1980,
c. 478
R.S.O. 1897,
c. 327

33.—(1) Despite the *Solicitors Act* and *An Act Respecting Champerty*, a solicitor and a representative party may enter into a written agreement providing for payment of fees and disbursements only in the event of success in a class proceeding.

Inter-
pretation:
success in a
proceeding

(2) For the purpose of subsection (1), success in a class proceeding includes,

- (a) a judgment on common issues in favour of some or all class members; and
- (b) a settlement that benefits one or more class members.

Definitions

(3) For the purposes of subsections (4) to (7),

“base fee” means the result of multiplying the total number of hours worked by an hourly rate; (“honoraires de base”)

“multiplier” means a multiple to be applied to a base fee. (“multiplicateur”)

Agreements
to increase
fees by a
multiplier

(4) An agreement under subsection (1) may permit the solicitor to make a motion to the court to have his or her fees increased by a multiplier.

Motion to
increase fee
by a
multiplier

(5) A motion under subsection (4) shall be heard by a judge who has,

- (a) given judgment on common issues in favour of some or all class members; or
- (b) approved a settlement that benefits any class member.

(4) S'il n'approuve pas l'entente, le tribunal peut :

Établissement
des honoraires
en l'absence
d'approbation
judiciaire

- a) fixer les sommes dues au procureur à titre d'honoraires et de débours;
- b) ordonner un renvoi aux termes des règles de pratique afin de fixer les sommes dues;
- c) ordonner que les sommes dues soient fixées d'une autre manière.

33 (1) Malgré la *Loi sur les procureurs* et la loi intitulée *An Act Respecting Champerty*, le procureur et le représentant peuvent conclure une entente écrite qui ne prévoit le paiement d'honoraires et de débours qu'en cas d'issue favorable du recours collectif.

Entente en
cas d'issue
favorable
L.R.O. 1980,
chap. 478
L.R.O. 1897,
chap. 327

(2) Pour l'application du paragraphe (1), «issue favorable du recours collectif» s'entend notamment :

Interprétation

- a) d'un jugement rendu sur les questions communes en faveur de certains membres ou de tous les membres du groupe;
- b) d'une transaction qui profite à un ou plusieurs membres du groupe.

(3) Les définitions qui suivent s'appliquent aux paragraphes (4) à (7).

Définitions

«honoraires de base» Le produit du nombre total d'heures de travail multiplié par le taux horaire. («base fee»)

«multiplicateur» Le multiple appliqué aux honoraires de base. («multiplier»)

(4) L'entente visée au paragraphe (1) peut permettre au procureur de demander au tribunal, par voie de motion, l'augmentation de ses honoraires par application d'un multiplicateur.

Augmentation
des honoraires
par un multi-
plicateur

(5) La motion visée au paragraphe (4) est entendue par le juge qui :

Motion en
vue d'augmen-
ter les
honoraires

- a) a rendu un jugement sur les questions communes en faveur de certains membres ou de tous les membres du groupe;
- b) a homologué une transaction qui profite aux membres du groupe.

Idem (6) Where the judge referred to in subsection (5) is unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.

Idem (7) On the motion of a solicitor who has entered into an agreement under subsection (4), the court,

(a) shall determine the amount of the solicitor's base fee;

(b) may apply a multiplier to the base fee that results in fair and reasonable compensation to the solicitor for the risk incurred in undertaking and continuing the proceeding under an agreement for payment only in the event of success; and

(c) shall determine the amount of disbursements to which the solicitor is entitled, including interest calculated on the disbursements incurred, as totalled at the end of each six-month period following the date of the agreement.

Idem (8) In making a determination under clause (7) (a), the court shall allow only a reasonable fee.

Idem (9) In making a determination under clause (7) (b), the court may consider the manner in which the solicitor conducted the proceeding.

Motions **34.**—(1) The same judge shall hear all motions before the trial of the common issues.

Idem (2) Where a judge who has heard motions under subsection (1) becomes unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.

Idem (3) Unless the parties agree otherwise, a judge who hears motions under subsection (1) or (2) shall not preside at the trial of the common issues.

Rules of court **35.** The rules of court apply to class proceedings.

Crown bound **36.** This Act binds the Crown.

Application of Act **37.** This Act does not apply to,

(6) Si le juge mentionné au paragraphe (5) n'est pas disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge du tribunal à l'audition de la motion. Idem

(7) Le tribunal saisi de la motion du procureur qui a conclu une entente aux termes du paragraphe (4) : Idem

a) décide du montant des honoraires de base du procureur;

b) peut appliquer aux honoraires de base un multiplicateur qui permette d'arriver à une rémunération équitable et raisonnable pour le procureur, compte tenu des risques qu'il a pris en introduisant et en continuant une instance dans le cadre d'une entente ne garantissant le paiement de ses honoraires qu'en cas d'issue favorable;

c) décide du montant des débours auquel a droit le procureur, y compris les intérêts calculés sur les débours effectués, selon le total fait à la fin de chaque semestre suivant la date de l'entente.

(8) Le tribunal qui rend une décision aux termes de l'alinéa (7) a) n'accorde que des honoraires raisonnables. Idem

(9) Le tribunal qui rend une décision aux termes de l'alinéa (7) b) peut examiner la façon dont le procureur s'est acquitté de sa tâche au cours de l'instance. Idem

34 (1) Le même juge entend toutes les motions avant l'instruction des questions communes. Motions

(2) Si le juge qui a entendu des motions aux termes du paragraphe (1) n'est plus disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge à l'audition des motions. Idem

(3) Sauf accord contraire des parties, le juge qui entend les motions aux termes du paragraphe (1) ou (2) ne doit pas présider l'instruction des questions communes. Idem

35 Les règles de pratique s'appliquent aux recours collectifs. Règles de pratique

36 La présente loi lie la Couronne. Loi liant la Couronne

37 La présente loi ne s'applique pas : Champ d'application de la loi

- (a) a proceeding that may be brought in a representative capacity under another Act;
- (b) a proceeding required by law to be brought in a representative capacity; and
- (c) a proceeding commenced before this Act comes into force.

Commence-
ment

38. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

39. The short title of this Act is the *Class Proceedings Act, 1990*.

- a) aux instances qui peuvent être introduites comme recours collectifs aux termes d'une autre loi;
- b) aux instances qui doivent, selon la loi, être introduites comme recours collectifs;
- c) aux instances introduites avant l'entrée en vigueur de la présente loi.

38 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en
vigueur

39 Le titre abrégé de la présente loi est *Loi de 1990 sur les recours collectifs*. Titre abrégé

Bill 214

An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings

The Hon. I. Scott
Attorney General



1st Reading June 12th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill amends the *Law Society Act* to provide for the Class Proceedings Fund and establish the Class Proceedings Committee. The Class Proceedings Fund is to be administered by the Law Foundation of Ontario.

A plaintiff to a class proceeding may apply to the Class Proceedings Committee for financial support from the Class Proceedings Fund in respect of the plaintiff's disbursements related to the proceeding. The Bill sets out criteria for the Committee to consider in deciding whether to fund a plaintiff. A defendant to a class proceeding is entitled to payment from the Class Proceedings Fund in respect of costs awards made in the proceeding in the defendant's favour against a plaintiff who has received support from the Fund.

The Lieutenant Governor in Council is given regulation making powers relating to the Class Proceedings Fund.

Bill 214

1990

**An Act to amend the Law Society Act to provide
for Funding to Parties to Class Proceedings**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 52 of the *Law Society Act* is amended by striking out “53, 54, 55, 56, 57, 58 and 59” in the first line and substituting “53 to 59e” and by adding the following definitions: R.S.O. 1980,
c. 233

(aa) “class proceeding” means a proceeding certified as a class proceeding on a motion made under section 2 or 3 of the *Class Proceedings Act, 1990*; 1990, c. ...

(ab) “Committee” means the Class Proceedings Committee referred to in section 59b;

(ac) “defendant” includes a respondent;

.

(ba) “plaintiff” includes an applicant.

2. Subsection 55 (1) of the Act is amended by adding the following paragraph:

4. The provision of costs assistance to parties to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*. 1990, c. ...

3. The Act is amended by adding the following sections:

59a.—(1) The board shall,

Class
Proceedings
Fund

(a) establish an account of the Foundation to be known as the Class Proceedings Fund;

- (b) within sixty days after this Act comes into force, endow the Class Proceedings Fund with \$300,000 from the funds of the Foundation;
- (c) within one year after the day on which the endowment referred to in clause (b) is made, endow the Class Proceedings Fund with a further \$200,000 from the funds of the Foundation; and
- (d) administer the Class Proceedings Fund in accordance with this Act and the regulations.

Purposes of
the Class
Proceedings
Fund

(2) The Class Proceedings Fund shall be used for the following purposes:

1990, c. ...

- 1. Financial support for plaintiffs to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*, in respect of disbursements related to the proceeding.
- 2. Payments to defendants in respect of costs awards made in their favour against plaintiffs who have received financial support from the Fund.

Application
of s. 56

(3) Funds in the Class Proceedings Fund are funds of the Foundation within the meaning of section 56, but payments out of the Class Proceedings Fund shall relate to the administration or purposes of the Fund.

Class
Proceedings
Committee

59b.—(1) The Class Proceedings Committee is established and shall be composed of,

- (a) one member appointed by the Foundation;
- (b) one member appointed by the Attorney General; and
- (c) three members appointed jointly by the Foundation and the Attorney General.

Term of
office

(2) Each member of the Class Proceedings Committee shall hold office for a period of three years and is eligible for re-appointment.

Quorum

(3) Three members of the Committee constitute a quorum.

Vacancies

(4) Where there are not more than two vacancies in the membership of the Committee, the remaining members constitute the Committee for all purposes.

(5) The members of the Committee shall serve without remuneration, but each member is entitled to compensation for expenses incurred in carrying out the functions of the Committee.

Remuneration

59c.—(1) A plaintiff to a class proceeding or to a proceeding commenced under section 2 of the *Class Proceedings Act, 1990* may apply to the Committee for financial support from the Class Proceedings Fund in respect of disbursements related to the proceeding.

Applications by plaintiffs 1990, c. ...

(2) An application under subsection (1) shall not include a claim in respect of solicitor's fees.

Idem

(3) The Committee may direct the board to make payments from the Class Proceedings Fund to a plaintiff who makes an application under subsection (1), in the amount that the Committee considers appropriate.

Committee may authorize payment

(4) In making a decision under subsection (3), the Committee may have regard to,

Idem

- (a) the merits of the plaintiff's case;
- (b) whether the plaintiff has made reasonable efforts to raise funds from other sources;
- (c) whether the plaintiff has a clear and reasonable proposal for the use of any funds awarded;
- (d) whether the plaintiff has appropriate financial controls to ensure that any funds awarded are spent for the purposes of the award; and
- (e) any other matter that the Committee considers relevant.

(5) A plaintiff who has received funding under subsection (3) may apply to the Committee at any time up to the end of the class proceeding for supplementary funding and the Committee may direct the board to make further payments from the Class Proceedings Fund to the plaintiff if the Committee is of the opinion, having regard to all the circumstances, that it is appropriate to do so.

Supplementary funding

(6) The board shall make payments in accordance with any directions given by the Committee under this section.

Board shall make payments

59d.—(1) A defendant to a proceeding may apply to the board for payment from the Class Proceedings Fund in respect

Applications by defendants

of a costs award made in the proceeding in the defendant's favour against a plaintiff who has received financial support from the Class Proceedings Fund in respect of the proceeding.

Board shall
make
payments

(2) The board shall make payments applied for in accordance with subsection (1) from the Class Proceedings Fund, subject to any limits or tariffs applicable to such payments prescribed by the regulations.

Plaintiff not
liable

(3) A defendant who has the right to apply for payment from the Class Proceedings Fund in respect of a costs award against a plaintiff may not recover any part of the award from the plaintiff.

Regulations

59e.—(1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the administration of the Class Proceedings Fund;
- (b) establishing procedures for making applications under sections 59c and 59d;
- (c) establishing criteria in addition to those set out in section 59c for decisions of the Committee under section 59c;
- (d) establishing limits and tariffs for payments under sections 59c and 59d;
- (e) prescribing conditions of awards under section 59c;
- (f) providing for the assessment of costs in respect of which a claim is made under section 59d;
- (g) providing for levies in favour of the Class Proceedings Fund against awards and settlement funds in proceedings in respect of which a party receives financial support from the Class Proceedings Fund.

Idem

(2) A regulation made under clause (1) (d) may provide for different limits and tariffs for different stages and types of proceedings.

Idem

(3) A regulation made under clause (1) (g) may provide for levies that exceed the amount of financial support received by the parties to a proceeding.

(4) A regulation made under clause (1) (g) may provide for levies based on a formula that takes the amount of an award or settlement fund into account. Idem

(5) A levy under clause (1) (g) against a settlement fund or monetary award is a charge on the fund or award. Idem

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

5. The short title of this Act is the *Law Society Amendment (Class Proceedings Funding) Act, 1990*. Short title

Bill 215

An Act to amend the Construction Lien Act, 1983

The Hon. I. Scott
Attorney General



1st Reading June 12th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to reverse the recent decision of the Ontario Court of Appeal known as *Jerry's Asphalt Paving Ltd. and J-AAR Excavating Ltd. v. Core Developments Ltd.* In that case the court altered what was commonly considered to be a limitation on a lien claimant's potential claim for damages. The court held that a lien claimant could seek compensation from the entire pool of the holdback retained by the owner, instead of being restricted to a share of the total holdback. The purpose of this amendment is to limit a lien claimant's claim to the amount held back from the person who failed to pay that lien claimant. The Bill therefore ensures that there will be a security fund available to all who have not been paid instead of just to the person who acts first. As the Bill restores what was thought to be the law, the Bill is retroactive to the date that the *Construction Lien Act, 1983* came into force, the 2nd day of April, 1983.

Bill 215

1990

An Act to amend the Construction Lien Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 23 of the *Construction Lien Act, 1983* is repealed 1983, c. 6
and the following substituted:

23.—(1) Subject to subsections (2), (3) and (4), an owner is personally liable for holdbacks that the owner is required to retain under this Part to those lien claimants who have valid liens against the owner's interest in the premises. Personal liability of owner

(2) Where the defaulting payer is the contractor, the owner's personal liability to a lien claimant or to a class of lien claimants as defined by section 81 does not exceed the holdbacks the owner is required to retain. Limitation

(3) Where the defaulting payer is a subcontractor, the owner's personal liability to a lien claimant or to a class of lien claimants as defined by section 81 does not exceed the lesser of, Idem

(a) the holdbacks the owner is required to retain; and

(b) the holdbacks required to be retained by the contractor or a subcontractor from the lien claimant's defaulting payer.

(4) The personal liability of an owner under this section may only be determined by an action under this Act. How determined

2. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before this Act receives Royal Assent. Saving

Commence-
ment

3. This Act shall be deemed to have come into force on the 2nd day of April, 1983.

Short title

4. The short title of this Act is the *Construction Lien Amendment Act, 1990*.

Bill 215

(Chapter 17
Statutes of Ontario, 1990)

An Act to amend the Construction Lien Act, 1983

The Hon. I. Scott
Attorney General



<i>1st Reading</i>	June 12th, 1990
<i>2nd Reading</i>	June 27th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 215

1990

An Act to amend the Construction Lien Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 23 of the *Construction Lien Act, 1983* is repealed and the following substituted: 1983, c. 6

23.—(1) Subject to subsections (2), (3) and (4), an owner is personally liable for holdbacks that the owner is required to retain under this Part to those lien claimants who have valid liens against the owner's interest in the premises. Personal liability of owner

(2) Where the defaulting payer is the contractor, the owner's personal liability to a lien claimant or to a class of lien claimants as defined by section 81 does not exceed the holdbacks the owner is required to retain. Limitation

(3) Where the defaulting payer is a subcontractor, the owner's personal liability to a lien claimant or to a class of lien claimants as defined by section 81 does not exceed the lesser of, Idem

(a) the holdbacks the owner is required to retain; and

(b) the holdbacks required to be retained by the contractor or a subcontractor from the lien claimant's defaulting payer.

(4) The personal liability of an owner under this section may only be determined by an action under this Act. How determined

2. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before this Act receives Royal Assent. Saving

Commence-
ment

3. This Act shall be deemed to have come into force on the 2nd day of April, 1983.

Short title

4. The short title of this Act is the *Construction Lien Amendment Act, 1990*.

Government
Publications

Bill 216



An Act to amend the Corporations Tax Act

The Hon. R. Mancini
Minister of Revenue

1st Reading June 12th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Treasurer's Budgets of April 20, 1988, May 17, 1989 and April 24, 1990 and amends the *Corporations Tax Act* (the "CTA"), consequential upon the passage of amendments to the *Income Tax Act* (Canada) (the "Federal Act"), in order to maintain the provisions of the CTA in conformity with existing policies of the Treasurer for the taxation of corporations.

SECTION 1. The repeal of subclause 1 (1) (aa) (i) of the CTA is consequential upon amendments to the Federal Act and eliminates a redundant reference to paragraph 125 (7) (d) of the *Income Tax Act* (Canada), the definition of "personal services business".

The re-enactment of subclause 1 (1) (b) (ix) will prevent U.S. trucking corporations subject to Ontario Corporations Income Tax from changing their fiscal year-ends without the approval of the Ontario Minister of Revenue.

The repeal of clause 1 (1) (ja) is consequential upon elimination and replacement of the special small corporation rules with the exempt from filing rules in clause 67 (1) (d) of the CTA.

The enactment of clause 1 (1) (ab) makes it clear that the Federal Act provision deeming things received on the date mailed does not apply for CTA purposes.

The re-enactment of sub-subclause 1 (2) (d) (iv) (A) adds sections of the Federal Act which contain references to other sections of the Federal Act which will apply for the purposes of the CTA.

The enactment of subsection 1 (1a) is consequential upon and parallels amendments to the Federal Act which permit private corporations to establish their year-ends immediately prior to the application of the new taxable capital gain inclusion proportions brought about by tax reform.

The enactment of subsection 1 (8) will permit the use of any form of postal delivery service for which a receipt is obtained from the addressee.

SECTION 2. The enactment of subsection 5 (12) implements the Treasurer's 1990 Budget proposal to levy Ontario corporate income tax on the Ontario profits of U.S. trucking corporations by deeming non-resident corporations which transport goods by commercial vehicle to have a permanent establishment in Ontario if the corporation transports goods to or from Ontario or holds a licence to transport goods to or from Ontario.

SECTION 3. The enactment of section 5a adds a general anti-avoidance provision to the CTA. This reflects the Treasurer's 1988 Budget proposal to parallel federal tax reform measures. This section can be used to deny the tax benefit that would result from a transaction unless the transaction may reasonably be considered to have been undertaken or arranged primarily for purposes other than to obtain the tax benefit.

SECTION 4. The re-enactment of section 7 makes it clear that there may be additions as well as deductions in computing taxable income.

SECTION 5.—Subsections 1, 3 and 4. The re-enactment of subsection 12 (2), amendment to subsection 12 (7) and repeal of clause 12 (7) (c) are consequential upon and parallel amendments to the Federal Act which generally disallow deductions for interest and property taxes on vacant land held but not used in connection with a business and for land used in the course of a business of development and resale except to the extent of income from the land.

Subsection 2. The re-enactment of subsection 12 (6) adds an exemption from the 5/15.5 add-back for payments to non-residents for certain types of rights related to television

news programs produced in Canada. The add-back is being expanded to include any other means of reproduction for use in connection with television.

Subsection 5. The re-enactment of clause 12 (7) (d) implements the Treasurer's 1988 Budget proposal to extend the resource allowance to mining profits.

Subsection 6. The re-enactment of subsection 12 (9b) is consequential upon amendments to the Federal Act providing transitional rules for phasing out deductions for bank reserves under the pre-federal tax reform rules. An existing Ontario policy difference is taken into account.

Subsection 7. The repeal of subsections 12 (14) and (15) are consequential upon amendments to sub-clause 1 (2) (d) (iv) (A) which provide an automatic link with Federal Act provisions.

Subsection 8. The enactment of subsection 12 (6c) replaces a reference in a provision adopted from the Federal Act with the appropriate CTA reference.

The enactment of subsection 12 (9c) is consequential upon amendments to the Federal Act and creates a regulation making authority to allow for federal and Ontario policy differences in transitional rules for the revised treatment of bank reserves.

The enactment of subsection 12 (10a) implements the Treasurer's 1988 Budget proposal that the International Banking Centre provisions in the Federal Act amendments would not be paralleled in the CTA.

The enactment of subsections 12 (18) and (19) parallel and are consequential upon amendments to the Federal Act which phase in over five years the disallowance of deductions for interest and property taxes on certain vacant land except to the extent of income from the land.

SECTION 6. The enactment of section 12a implements the Treasurer's 1988 Budget proposal for a research and development Super Allowance. The Super Allowance is a direct deduction from income based upon current and capital expenditures on scientific research and development incurred in Ontario.

The enactment of section 12b implements the Treasurer's 1988, 1989 and 1990 Budget proposals related to the Ontario current cost adjustment ("the OCCA"). The OCCA is a direct deduction from income otherwise subject to tax in Ontario calculated as a percentage of the tax depreciable cost of new manufacturing and processing machinery and equipment used in Ontario. The OCCA rate is equal to 10 per cent for eligible assets acquired in 1989, 15 per cent for eligible assets acquired in 1990 and 30 per cent for deductions claimed for taxation years commencing after 1990. Prescribed pollution control equipment acquired after May 17, 1989 is also eligible for the OCCA.

SECTION 7. The enactment of clause 13 (4) (e) requires adjustments to the adjusted cost base of a partnership interest in respect of research and development Super Allowance and Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 8. The enactment of section 16a reinstates rules for calculating reserves for resource property disposals as a complement to Ontario's adoption of the new federal successor rules for resource corporations.

SECTION 9.—Subsection 1. The repeal of subsection 18 (5) is consequential upon amendments to the Federal Act which revise the existing rules for the deduction of Canadian exploration and development expenses by successor corporations and move the rules to section 66.7 of the Federal Act. The new rules are adopted in section 18c of the CTA.

Subsection 2. The re-enactment of subsection 18 (7) removes references to repealed sections of the Federal Act. The enactment of subsection (7a) parallels amendments to the

Federal Act and changes cross-references to the Federal Act related to successor rules for Canadian resource properties.

Subsections 3 and 4. The amendment to subsection 18 (14) adopts Federal Act definitions relating to Canadian resource properties and adds a reference to section 18c of the CTA which adopts the new Federal Act successor rules.

SECTION 10. The amendment to subclause 18a (b) (iii) is consequential upon amendments to the Federal Act and will ensure that Canadian development expenses incurred in Ontario with respect to which the underlying resource properties have been transferred to a successor corporation will no longer qualify the predecessor corporation for the additional 70 per cent write-off for Ontario development expenses.

The amendments to section 18a make it clear that the Minister referred to in clause 66.1 (6) (a) (ii.1) (D) of the Federal Act shall be read as a reference to the Minister of National Revenue.

The amendment to clause 18a (b) prorates, for short taxation years, the additional 70 per cent deduction allowed for Canadian development expenses incurred in Ontario.

SECTION 11. The amendment to section 18b and clause 18b (a) adopts a provision in the Federal Act which allows the late filing of forms in respect of flow-through share arrangements.

The amendments to clauses 18b (b), (c) and (d) adopt a provision in the Federal Act which allows the flow-through of oil and gas exploration expenditures made after 1987 and renounced before October 14, 1988.

SECTION 12. The enactment of section 18c parallels and is consequential upon amendments to the Federal Act which permit successor corporations beyond a second successor to deduct from income resource expenditures acquired from a predecessor corporation.

The enactment of section 18d parallels and is consequential upon amendments to the Federal Act which prorate deductions for Canadian development expenses and Canadian oil and gas property expenses.

The enactment of section 18e parallels and is consequential upon amendments to the Federal Act which limit the deduction of resource expenditures by a limited partner of a limited partnership to the partner's "at-risk amount" with respect to the partnership.

SECTION 13. The enactment of subsection 20 (3) parallels and is consequential upon amendments to the Federal Act and applies federally prescribed interest rates to refundable deposits to limit deductions for lease expenses of passenger vehicles.

The enactment of subsection 20 (4) prevents corporations from receiving a tax benefit from unrelated parties through the transfer of foreign resource property in an amalgamation or merger.

SECTION 14. The re-enactment of section 21 is similar to amendments to the Federal Act and ensures that the amount of a benefit conferred on a corporation will be included in the corporation's income for tax purposes.

SECTION 15. The enactment of subsection 25 (7) requires adjustments to the calculation of a limited partnership loss in respect of the research and development Super Allowance and the Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 16. The enactment of section 26a parallels and is consequential upon amendments to the Federal Act which allow depreciation to be recaptured from beneficiaries of mutual fund trusts who received the benefit of the CCA deduction.

SECTION 17.—Subsections 1 and 2. The re-enactment of subsections 27 (2) and (3), which is consequential upon amendments to the Federal Act, changes cross-references to the provisions of the Federal Act with respect to the filing of receipts to support charitable gifts and related definitions.

Subsection 3. The enactment of subsections 27 (10) and (11) contain technical changes consequential upon amendments to the Federal Act rules dealing with the deductibility of losses where there is a change in control of a corporation.

The enactment of subsection 27 (12) requires certain adjustments to the amount of limited partnership losses that can be deducted by a corporate partner. The adjustments pertain to the research and development Super Allowance and the Ontario current cost adjustment deductions claimed by the partner, which relate to expenditures by the partnership.

SECTION 18. The enactment of section 27a allows the Minister to determine the maximum amount of a loss that may be deducted in a year in certain cases where the loss has been created from the Super Allowance or Ontario current cost adjustment deductions.

SECTION 19. The enactment of subsection 29 (4) parallels the deferral of income tax allowed in the Federal Act to certain foreign corporations that have undertaken corporate reorganizations.

The enactment of subsection 29 (5) implements the Treasurer's 1990 Budget proposal to require American-based truck transportation firms to pay Ontario corporate income tax. The section calculates the taxable income of non-resident corporations which transport goods by commercial vehicle based upon the profits from shipments to, from or between locations in Ontario prorated by the distance travelled in Ontario over total distance travelled on such shipments.

SECTION 20. The enactment of subsection 32 (4) disallows the interest income from an eligible loan arising in an international banking centre business from qualifying for the Ontario foreign tax credit.

SECTION 21. The re-enactment of subsections 33a (1) and (2) provide transitional rules for the phasing out of the three-year small business corporate income tax exemption.

SECTION 22.—Subsection 1. The re-enactment of clause 40 (2) (b) is consequential upon amendments to the Federal Act and alters the rate of effective tax applied to capital gains dividends and capital gains redemptions for the purpose of calculating the capital gains refund of a mutual fund corporation.

Subsection 2. The re-enactment of subsection 40 (4) is consequential upon amendments to the Federal Act which alter the current rate of tax and capital gains inclusion rate. The provision changes the gross-up rate used in calculating the "capital gains redemption" and in keeping a running "capital gains dividend account" for mutual fund corporations.

SECTION 23. The enactment of subsection 45 (3) implements the Treasurer's 1988 Budget proposal to disallow a CTA deduction for the new federal tax on investment income of life insurers.

SECTION 24.—Subsections 1 to 4. The amendment to clause 49 (1) (a) parallels and is consequential upon amendments to the Federal Act which provide an exemption for "master trusts" that hold investments exclusively for registered pension funds or plans and that elect to have the exemption apply. The amendment to clause 49 (1) (b), repeal of clause 49 (1) (c), re-enactment of subsection 49 (4) and enactment of subsection 49 (4a) generally parallel and are consequentially upon amendments to the Federal Act which limit the income tax exemption for insurers to that portion of taxable income which is related to farming risks.

Subsection 5. The re-enactment of subsection 49 (6) clarifies an existing policy difference from the Federal Act and makes the deemed disposition rules for foreign resource properties applicable for Ontario purposes.

SECTION 25.—Subsection 1. The re-enactment of subsection 53 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision requires bank mortgage subsidiaries to continue to use the special Loan and Trust formula to compute taxable paid-up capital even though the subsidiaries are no longer required to be registered under the *Loan and Trust Corporations Act, 1987*.

Subsections 2 and 3. The re-enactment of subsections 53 (5) and (6) provides for the exclusion of stock dividends received from a subsidiary or controlled corporation from the calculation of taxable paid-up capital.

SECTION 26. The re-enactment of subclause 54 (1) (c) (iv) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that deposits held by a bank mortgage subsidiary continue to qualify as eligible investments if held more than 120 days.

SECTION 27.—Subsection 1. The amendment to subsection 58 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that bank mortgage subsidiaries continue to pay capital tax at the same rate as loan and trust corporations.

Subsection 2. The amendment to subsection 58 (3) implements the Treasurer's 1988 Budget proposal to increase the capital tax rate for loan and trust corporations and bank mortgage subsidiaries for a taxation year to four-fifths of 1 per cent from three-fifths of 1 per cent.

SECTION 28.—Subsection 1. The amendment to subsection 59 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provisions ensure that the formula for allocating taxable capital outside Ontario currently used by loan and trust corporations continues to be applicable to bank mortgage subsidiaries.

Subsection 2. The amendment to subsection 59 (3) is consequential upon the increase in the capital tax rate for loan and trust corporations.

SECTION 29. The re-enactment of section 60 repeals the previous minimum annual capital tax of \$50 and exempts corporations from capital tax if total assets and gross revenue as recorded in the books and records do not exceed \$1,000,000.

SECTION 30. The re-enactment of subsections 61 (1), (2) and (4) and the repeal of subsections 61 (5) and (6) implement the Treasurer's 1988 Budget proposal for a new capital tax rate structure.

SECTIONS 31, 32 and 33. The amendments to sub-subclauses 61a (2) (a) (ii) (A) and 61a (2) (b) (i) (B) and subsection 63 (1) change internal cross-references due to changes to the capital tax rate structure.

The re-enactment of subsection 63 (2) increases the flat rate of capital tax paid by specified types of corporations from \$50 to \$100 unless they are exempt.

The re-enactment of section 62 exempts trucking corporations with deemed permanent establishments in Ontario under subsection 5 (12) from the application of Ontario capital tax.

SECTION 34. The amendment to section 64 is consequential upon the repeal of section 60 and provides generally for the apportionment of capital tax where the taxation year of a corporation is less than 365 days.

SECTION 35. The amendment to section 65 recognizes that the minimum \$50 capital tax has been eliminated where an exempt corporation is subject to tax for part of a year.

SECTION 36. The repeal of subsection 66 (9) of the Act removes the provision which deems the taxation year of every insurance company to end on the 31st day of December.

SECTION 37. The re-enactment of subsections 67 (1) and (1a) and enactment of subsections (1b), (1c) and (1d) eliminate references to special small corporations and provide an exemption from the requirement to deliver a return for certain Canadian-controlled private corporations that filed a return under the Federal Act and had no taxable income or tax payable for the taxation year. The exemption does not apply where the corporation is claiming a loss carry back to a previous taxation year. The amendment to subsection 67 (3) changes a subsection reference consequential upon renumbering in the section.

SECTION 38.—Subsections 1 and 2. The re-enactment of subsections 68 (1) and (2) increases the penalties for failure to deliver a return.

The enactment of subsections 68 (3), (3a) and (4a) parallels Federal Act amendments which increase the prosecution penalty for tax evasion and create a saving provision which provides that where a person has been convicted of tax evasion, that person is not liable to administrative penalties for the same offence unless assessed before the prosecution proceedings had commenced.

The re-enactment of subsection 68 (4) parallels and is consequential upon increases in the penalty in the Federal Act for gross negligence to the greater of \$100 and 50 per cent of the tax attributable to the understated income or any other subject of tax.

Subsection 3. The enactment of subsections 68 (6) and (7) parallel and are consequential upon amendments to the Federal Act which levy a penalty for repeated failure to report in a return an amount required to be included in computing income. The penalty is 25 per cent of the unreported amount.

SECTION 39. The re-enactment of sub-subclauses 70 (2) (a) (i) (A) and 70 (2) (a) (ii) (A) provide authority for charging interest on deficient instalments based on actual tax payable.

The re-enactment of subclause 70 (2) (b) (i) eliminates the due date requirements for the payment of tax for special small corporations.

SECTION 40. The re-enactment of subsection 72 (5a) is consequential upon the repeal of the special small corporation concept.

SECTION 41.—Subsection 1. The re-enactment of clause 73 (1) (b) eliminates the assessment requirements for special small corporations.

Subsection 2. The re-enactment of subsection 73 (3) is consequential upon the addition of the general anti-avoidance provision. The subsection extends certain provisions relating to assessments to a notice of determination issued in respect of a determination of tax consequences made under the general anti-avoidance rule.

Subsection 3. The re-enactment of clause 73 (7) (a) contains housekeeping changes in terminology. “Filing a return” becomes “delivering a return” and “misrepresentation” becomes “misrepresentation that is attributable to neglect, carelessness or wilful default”.

Subsection 4. The re-enactment of clause 73 (7) (b) parallels and is consequential upon amendments to the Federal Act and extends the time limit for issuing assessments where payments to non-residents are involved to seven years.

Subsection 5. The enactment of subsections 73 (2a), (2b) and (4a) are consequential upon the addition of the general anti-avoidance provision. Subsection 73 (2a) allows the

Minister to issue a notice of determination. Under subsection 73 (4a) a determination under subsection 73 (2a) is binding on both the Minister and the corporation subject to the corporation's rights of objection and appeal and the Minister's power to make a re-determination. Subsection 73 (7b) deems an assessment date for corporations who do not file a return under subsection 67 (1a) and subsection 73 (7c) provides that where an assessment is sent to the corporation, subsection 73 (7b) does not apply.

SECTION 42. The amendment to subsection 75 (1) eliminates the requirements to make refunds to special small corporations.

SECTION 43. The re-enactment of subsection 77 (1) and enactment of subsection (1a) generally extend the objection and appeal procedures to assessments or determinations made under the general anti-avoidance provision subject to the exception contained in subsection 85 (3).

SECTION 44. The amendments to subsections 85 (2), (3) and (5) relate to the addition of the general anti-avoidance provision. Subsection 85 (2) provides that the corporation and the Minister will be bound by the resolution to an objection or an appeal at the federal level to a specified assessment. Subsection 85 (3) removes the right to file an Ontario notice of objection to a specified assessment which has been objected to at the federal level. Subsection 85 (5) provides a definition for "specified assessment".

SECTION 45. The amendment to subsection 86 (1) eliminates the authority of the Minister to remove books and records and retain them until they are produced in a court hearing. The repeal of subsection 86 (4) eliminates the authority of the Minister to, with the permission of a judge, enter premises and search and seize documents.

SECTION 46. The amendments to subsections 88 (1) and (2) increase the court fines from \$25 per day to \$200 per day for failure to file a return, failure to keep books and records, hindering an audit or investigation and failure to produce information and books and records.

SECTION 47. The re-enactment of subsection 91 (1) of the Act permits the communication of information to the Ministry of Treasury and Economics and the Government of Canada for use in the development and evaluation of tax policy. The re-enactment of subsection 91 (2) increases the fine for breach of confidentiality from \$200 to \$2,000.

Bill 216

1990

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed. R.S.O. 1980,
c. 97

(2) Subclause 1 (1) (b) (ix) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 1, is repealed and the following substituted:

(ix) despite subclause (iii), in the application of the interpretation of “fiscal period” contained in subsection 248 (1) of the *Income Tax Act* (Canada), the reference therein to “Minister” shall be deemed for the purposes of this Act to be a reference to the Minister of National Revenue for Canada, but this subclause does not apply with reference to a corporation that would not have a permanent establishment in Ontario in a taxation year but for subsection 5 (12). R.S.C. 1952,
c. 148

(3) Clause 1 (1) (ja) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(4) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, chapter 11, section 1, is further amended by adding the following clause:

(ab) subsection 248 (7) of the *Income Tax Act* (Canada) does not apply for the purposes of this Act. R.S.C. 1952,
c. 148

(5) Sub-subclause 1 (2) (d) (iv) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 1, is repealed and the following substituted:

- (A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), subsection 14 (3), section 20, paragraphs 37 (1) (d) and (e), subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), paragraph 67.1 (2) (d), section 66.8, paragraph 84 (1) (c.3), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 110 (1) (k), 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k), section 248 and subsection 258 (5) of the *Income Tax Act* (Canada) for the purposes of this Act.

(6) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1, 1985, chapter 11, section 1, 1986, chapter 39, section 1 and 1988, chapter 42, section 1, is further amended by adding the following subsections:

Private
corporation
year-end
election

(1a) Section 194 of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being the Statutes of Canada, 1988, chapter 55, applies for the purposes of this Act with respect to the end of taxation years of private corporations and in the application thereof,

R.S.C. 1952,
c. 148

- (a) references therein to "the said Act" shall be read as references to the *Income Tax Act* (Canada);
- (b) any election made thereunder by a private corporation shall be deemed,
 - (i) to be an election made under the *Income Tax Act* (Canada) for the purposes of the application of subsection 1 (4), and
 - (ii) to have been made under both that Act and this Act; and

- (c) any fiscal period referred to therein shall be the same for the purposes of the *Income Tax Act* (Canada) and this Act.

(8) Where a receipt is obtained from the addressee on the delivery of anything required or permitted by this Act to be delivered by registered mail, the delivery shall be deemed to have been made by registered mail for the purposes of this Act, and a "registered letter" includes any letter deemed by this subsection to have been delivered by registered mail.

Deemed
delivery by
registered
mail

2. Section 5 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 2, is further amended by adding the following subsection:

(12) A corporation that was incorporated under the laws of a jurisdiction outside Canada, does not otherwise have a permanent establishment in Canada and engages in the transportation of goods by commercial vehicle as one of its chief businesses during a taxation year, shall be deemed to have a permanent establishment in the taxation year in Ontario if, in the taxation year the corporation transports goods by commercial vehicle to or from Ontario, or holds a licence issued by a competent public authority in connection with the transportation of goods by commercial vehicle to or from Ontario.

Idem

3. The Act is amended by adding the following section:

5a.—(1) In this section and in subsection 73 (2a),

Definitions

"avoidance transaction" means any transaction,

- (a) that, but for this section, would result directly or indirectly in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit, or
- (b) that is part of a series of transactions which would result directly or indirectly in a tax benefit but for this section, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit;

"tax benefit" means a reduction, avoidance or deferral of tax or other amount payable by a corporation under this Act or

an increase in a refund of tax or other amount under this Act;

“tax consequences”, to a corporation, means the amount of,

- (a) the corporation’s income, taxable income, taxable income earned in a jurisdiction other than Ontario, taxable income earned in Canada or taxable income earned in Canada in a jurisdiction other than Ontario,
- (b) the corporation’s paid-up capital, taxable paid-up capital, taxable paid-up capital that is deemed to be used by the corporation in a jurisdiction outside Ontario, paid-up capital employed in Canada, taxable paid-up capital employed in Canada or taxable paid-up capital employed in Canada that is deemed to be used by the corporation in a jurisdiction outside Ontario,
- (c) any gross premium referred to in Part IV that is payable to the corporation or its agent or agents,
- (d) any amount, other than an amount referred to in clause (a), (b) or (c), payable by or refundable to the corporation under this Act or that is relevant for the purposes of determining any other amount referred to in this subsection;

“transaction” includes an arrangement or event.

Determi-
nation of tax
consequences

(2) If a transaction is an avoidance transaction, the tax consequences to a corporation shall be determined in a manner that is reasonable in the circumstances in order to deny the tax benefit that would otherwise result directly or indirectly from the transaction, or from a series of transactions that includes the transaction.

Saving

(3) Subsection (2) does not apply to a transaction if it is reasonable to consider that the transaction would not result directly or indirectly in a misuse or abuse of the provisions of this Act, having regard to the provisions of this Act, other than this section, read as a whole.

Nature of
determination

(4) Without restricting the generality of subsection (2), in any determination thereunder of the tax consequences of a transaction to a corporation,

- (a) any deduction in computing an amount referred to in clause (a), (b), (c) or (d) of the definition of “tax

consequences” in subsection (1) may be allowed or disallowed in whole or in part;

- (b) any deduction referred to in clause (a), any income or loss or other amount used in the determination of any amount payable or refundable under this Act may be allocated to any person;
- (c) the nature of any payment or other amount may be recharacterized; and
- (d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

(5) If a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to a transaction has been sent to a corporation, or a notice of determination under subsection 73 (2a) has been sent to the corporation, any other corporation is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2), or make a determination under subsection 73 (2a), with respect to the transaction.

Consequential
adjustments

(6) On receipt of a request by a corporation under subsection (5), the Minister shall consider the request and make an assessment or a determination under subsection 73 (2a) with respect to the corporation, despite the expiry of any time limit under subsection 73 (7), except that an assessment or determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Duty of the
Minister

(7) The tax consequences to any corporation after the application of this section shall be determined only through a notice of assessment, reassessment or additional assessment, or through a notice of determination under subsection 73 (2a), involving the application of this section.

Notice of
assessment,
etc.

4. Section 7 of the Act is repealed and the following substituted:

7. The taxable income of a corporation for a taxation year is its income for the taxation year plus the additions required by Division C and less the deductions permitted by Division C.

Interpretation

5.—(1) Subsection 12 (2) of the Act is repealed and the following substituted:

Inventory
R.S.C. 1952,
c. 148

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act, the amount determined by a corporation for the purposes of that Act as the value of property described in an inventory shall apply for the purposes of this Act, except that if the Minister is of the opinion that the value has been incorrectly determined by the corporation, the Minister may determine the value under section 10 of that Act for the purposes of this Act.

(2) Subsection 12 (6) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 6, is repealed and the following substituted:

Management
fees, rents,
royalties and
similar
payments to
non-residents

(6) Every corporation shall include in its income from a business or property for a taxation year an amount equal to 5/15.5 of all payments deducted in computing its income for the taxation year that are paid or payable to a non-resident person with whom the corporation was not dealing at arm's length in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or similar payment; or
- (c) a right in or to the use of,
 - (i) a motion picture film,
 - (ii) a film or video tape for use in connection with television, other than solely in connection with and as part of a news program produced in Canada, or
 - (iii) where the amount is paid or payable after the 31st day of December, 1988, any other means of reproduction for use in connection with television, other than solely in connection with and as part of a news program produced in Canada.

Saving

(6aa) Subsection (6) does not apply in respect of a payment paid or payable to a non-resident person if the non-resident person is a corporation liable for tax imposed by this Act and the amount of the payment has been included in computing the corporation's taxable income earned in Canada.

(3) Subsection 12 (7) of the Act is amended by striking out that portion before clause (a) and substituting the following:

(7) Paragraphs 20 (1) (a) and (v.1) of the *Income Tax Act* (Canada) are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Deductions
allowed
R.S.C. 1952,
c. 148

(4) Clause 12 (7) (c) of the Act is repealed.

(5) Clause 12 (7) (d) of the Act is repealed and the following substituted:

- (d) such amount as is allowed to the corporation by the regulations in respect of oil or gas resources in Canada or mineral resources in Canada.

(6) Subsection 12 (9b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, is repealed and the following substituted:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act, Banks

- (a) despite subclause 1 (2) (d) (vi), the amounts referred to in subparagraphs 26 (1) (c) (i) and 26 (2) (c) (i) of the *Income Tax Act* (Canada) shall be the amounts that were deductible under subsection 26 (2) of that Act in computing the income of the bank for the taxation years referred to in those subparagraphs for the purposes of that Act, and not the amounts that were deductible under subsection 26 (2) of that Act as that subsection applied for the purposes of this Act in computing the bank's income for those years for the purposes of this Act;
- (b) no amount shall be deducted under paragraph 26 (2) (a), (b), (c) or (e) of that Act, for the purpose of computing the income of a bank for a taxation year for the purposes of this Act, in excess of the amount deducted by the bank under that paragraph for the purposes of computing its income for the taxation year for the purposes of that Act, unless all amounts deductible by the bank under that paragraph have been deducted in computing its income for a previous taxation year or years for the purposes of that Act; and

- (c) the reference to subsections 26 (1) and (2) of that Act in subsection 26 (4) of that Act shall be deemed not to be a reference to those subsections as they applied for the purposes of this Act under the predecessor of this subsection.

(7) Subsections 12 (14) and (15) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, are repealed.

(8) Section 12 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2, 1984, chapter 29, section 2, 1985, chapter 11, section 6 and 1986, chapter 39, section 2, is further amended by adding the following subsections:

Loans or
lending assets
R.S.C. 1952,
c. 148

(6c) In the application of paragraph 18 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "this Part" shall be read as a reference to Part II of this Act.

Net reserve
adjustment
and inclusion

(9c) In the application of section 12.3 and subsection 20 (26) of the *Income Tax Act* (Canada) for the purposes of this Act, the prescribed amount of a corporation's net reserve inclusion referred to in section 12.3 and the prescribed amount of a corporation's net reserve adjustment referred to in subsection 20 (26) are the amounts prescribed by the regulations under this Act.

R.S.C. 1952,
c. 148,
s. 33.1 not
applicable

(10a) Section 33.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Interest and
property tax
transition
rule

(18) In the application of subsection 18 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 10 (23) of the Statutes of Canada, 1988, chapter 55, as it applies for the purposes of the application of subsection 10 (6) of that Act (which repealed and re-enacted subsection 18 (2) of the *Income Tax Act* (Canada)), applies for the purposes of this Act.

Idem

(19) In the application of subsections 18 (2.3) and (2.4) of the *Income Tax Act* (Canada) for the purposes of this Act, any reference therein to "the Minister" shall be read as a reference to the Minister of National Revenue.

6. The Act is further amended by adding the following sections:

12a.—(1) In this section,

Definitions

“amalgamated corporation” means a corporation that is a new corporation for the purposes of section 87 of the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

“base period”, of a corporation for a particular taxation year, means the three previous taxation years of the corporation or, where the corporation has had fewer than three previous taxation years, the period commencing on the first day of its first taxation year and ending immediately before the particular taxation year, except that,

- (a) if the corporation is an amalgamated corporation that, after the amalgamation, has had fewer than three taxation years ending before the particular taxation year, the base period,
 - (i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of a predecessor corporation commenced, and
 - (ii) shall end immediately before the particular taxation year, or
- (b) if the corporation was a parent corporation in a winding-up to which subsection 88 (1) of the *Income Tax Act* (Canada) applied and has had fewer than three taxation years ending before the particular taxation year, the base period,
 - (i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of the parent corporation or of a subsidiary corporation commenced, and
 - (ii) shall end immediately before the particular taxation year;

“contract payment” has the meaning given to that expression by subsection 127 (9) of the *Income Tax Act* (Canada);

“eligible qualified expenditure” means a qualified expenditure made after the 20th day of April, 1988;

“eligible research property” means research property acquired after the 20th day of April, 1988;

“expenditure base”, of a corporation for a particular taxation year, means the ratio of the number of days in the taxation year after the 20th day of April, 1988, to the number of days in the corporation’s base period for the particular taxation year, multiplied by the amount if any by which the aggregate of,

- (a) the total of all qualified expenditures made by the corporation during that base period, and
- (b) the total of all amounts paid by the corporation during that base period that may reasonably be considered to be repayments of amounts referred to in clause (d) that were received, or are deemed to have been received, by the corporation before or during that base period,

exceeds the aggregate of,

- (c) the total of all amounts each of which was deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in determining the amount of tax payable for a taxation year if,
 - (i) the amount of the deduction is reasonably attributable to a qualified expenditure made by the corporation in a taxation year ending in or before that base period, and
 - (ii) the amount of the deduction was included under paragraph 12 (1) (i) of that Act, as applicable for the purposes of this Act, in computing the corporation’s income for a taxation year ending in that base period or was first required to be included in an amount determined under paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), or paragraph 37 (1) (e) of that Act, as applicable for the purposes of this Act, for a taxation year ending in that base period, and
- (d) the total of all amounts paid to the corporation during a taxation year ending in that base period as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to a qualified expenditure made by the corporation;

“government assistance” and “non-government assistance” have the meanings given to those expressions by subsection 127 (9) of the *Income Tax Act* (Canada);

“Ontario allocation factor”, of a corporation for a taxation year, means the fraction equal to “A/B” where,

- (a) “A” equals the amount of taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, that would not be considered for the purposes of section 31 to have been earned in jurisdictions other than Ontario, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if it would otherwise be less than \$1, and
- (b) “B” equals the taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if it would otherwise be less than \$1;

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes any corporation in respect of which a predecessor corporation was an amalgamated corporation;

“qualified expenditure” means an expenditure made by a corporation in respect of scientific research and experimental development carried on in Ontario that is a qualified expenditure for the purposes of section 127 of the *Income Tax Act* (Canada), or that would have been a qualified expenditure for the purposes of that section but for the corporation previously specifying the expenditure for the purposes of clause 194 (2) (a) (ii) (A) of that Act, but does not include an expenditure of the type described in subparagraph 37 (7) (f) (i), (ii) or (iii) of that Act;

“research property” means property of a corporation referred to in subparagraph 37 (1) (b) (i) of the *Income Tax Act* (Canada);

“scientific research and experimental development” has the meaning prescribed by regulation made under the *Income Tax Act* (Canada) for the purposes of paragraph 37 (7) (b) of that Act;

“specified percentage”, in respect of a particular research property, is the percentage represented by the ratio of all amounts deducted under this section in respect of the research property to the capital cost of the research property;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

Research and
development
super
allowance

(2) In computing the income of a corporation for a taxation year, there may be deducted a research and development super allowance for the taxation year equal to the sum of,

- (a) 25 per cent, or if the corporation was a Canadian-controlled private corporation throughout the taxation year 35 per cent, of the lesser of,
 - (i) the aggregate of all amounts determined under subclause (b) (i) for the taxation year minus the total of all amounts determined for the taxation year under sub-subclauses (b) (ii) (B) and (C), or
 - (ii) the expenditure base of the corporation for the taxation year; and
- (b) 37.5 per cent, or if the corporation was a Canadian-controlled private corporation throughout the taxation year 52.5 per cent, of the amount if any by which,
 - (i) the total of all eligible qualified expenditures made by the corporation in the taxation year and all payments made by the corporation in the taxation year that may reasonably be considered to be repayments of amounts includable under sub-subclause (ii) (B) in the determination of the amount, if any, of any deduction under this section for the taxation year or a prior taxation year,

exceeds,

(ii) the aggregate of,

- (A) the expenditure base of the corporation for the taxation year,
- (B) the total of all amounts paid to the corporation in the taxation year as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to an eligible qualified expenditure made by the corporation, and
- (C) all amounts deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in computing tax payable under that Act for the previous taxation year, to the extent that the amounts deducted may reasonably be attributable to eligible qualified expenditures made by the corporation.

(3) Despite subsection (2), the amount of the research and development super allowance for a taxation year of a corporation that is entitled to a deduction under section 31 in the computation of its tax payable under this Part for the taxation year is the amount otherwise determined under this section divided by the corporation's Ontario allocation factor for the taxation year.

Where
income
earned partly
outside
Ontario

(4) In determining the amount of the expenditure base of an amalgamated corporation for a particular taxation year, each amount determined under clauses (a) to (d) in the definition of "expenditure base" in subsection (1) includes all amounts described under those clauses in respect of any predecessor corporation in respect of all of its taxation years commencing in the base period of the amalgamated corporation.

Expenditure
base after
amalgamation

(5) If subsection 88 (1) of the *Income Tax Act* (Canada) applies with respect to a winding-up of a subsidiary corporation, the amount of the expenditure base of the parent corporation for a particular taxation year includes in each amount determined under clauses (a) to (d) in the definition of "expenditure base" in subsection (1), all amounts described under those clauses in respect of the subsidiary corporation in

Expenditure
base after
winding-up
into parent

respect of its taxation years commencing in the base period of the parent corporation.

Associated
corporations

(6) The expenditure base for a taxation year of a corporation that is associated with one or more other corporations during the taxation year shall be determined according to the following formula:

$$B = A \times C/D$$

Where:

“B” is the expenditure base for the corporation for the particular taxation year;

“A” is the aggregate of,

- (a) the expenditure base of the corporation that would be determined, but for this subsection, for the particular taxation year, and
- (b) the expenditure base, as determined without reference to this subsection, of each corporation with which the corporation was associated at any time during the particular taxation year, for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year;

“C” is the amount determined under subclause (2) (a) (i) for the corporation for the particular taxation year; and

“D” is the aggregate of “C” and the amounts that would be determined under subclause (2) (a) (i) for each corporation with which the corporation was associated at any time during the particular taxation year for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year.

Recapture on
disposition of
eligible
research
property

(7) Except as provided in subsections (8) and (9), if a corporation has disposed of an eligible research property at any time in a particular taxation year, there shall be included in computing the income of the corporation for the particular taxation year an amount equal to the lesser of,

- (a) the specified percentage of the lesser of the fair market value of the property at the time of the dis-

position or the capital cost to the corporation of the property immediately before the disposition; or

- (b) the amount, if any, by which the aggregate of,
 - (i) all amounts deducted under this section by the corporation in computing its income for any taxation year commencing before the disposition and by any corporation associated with the corporation in the particular taxation year in computing its income for any taxation year ending in or before the particular taxation year,

exceeds the aggregate of,

- (ii) all amounts included by virtue of this subsection in respect of any other eligible research property in computing the income of the corporation for any taxation year commencing before the disposition, or in computing the income of any corporation associated with the corporation in the particular taxation year, for any taxation year ending in or before the particular taxation year.

(8) If subsection 85 (1) or 88 (1) of the *Income Tax Act* ^{Idem} (Canada) is applicable with respect to the disposition of eligible research property by a corporation to another corporation that is associated with the corporation in the taxation year in which the disposition occurs,

- (a) the property shall be deemed to be eligible research property of the other corporation; and
- (b) if the capital cost of the eligible research property to the corporation exceeds the proceeds of disposition, the capital cost of the eligible research property to the other corporation shall be deemed to be the amount that was the capital cost thereof to the corporation.

(9) If section 87 or subsection 88 (1) of the *Income Tax Act* ^{Idem} (Canada) is applicable with respect to an amalgamation of two or more corporations or to a winding-up of a subsidiary corporation, the amalgamated corporation or the parent corporation, as applicable, shall be deemed,

- (a) to have deducted, in computing its income for a taxation year commencing before the amalgamation or

winding-up, all amounts deducted under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year; and

- (b) to have included, in computing its income for any taxation year commencing before the amalgamation or winding-up, all amounts included under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year.

Capital cost
after amalga-
mation

(10) If section 87 of the *Income Tax Act* (Canada) is applicable in respect of an amalgamation of two or more corporations, the capital cost to the amalgamated corporation of any property that was eligible research property of a predecessor corporation and that becomes the property of the amalgamated corporation because of the amalgamation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be eligible research property of the amalgamated corporation.

Eligible
qualified
expenditures
to associated
corporation

(11) If a corporation has in a taxation year ending in a particular calendar year made a payment to another corporation associated with the corporation in the taxation year, the following rules apply:

1. If the payment would, but for this subsection, be a qualified expenditure made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation, in a taxation year of the other corporation ending after the particular calendar year, shall be deemed, for the purposes of this section, not to have been paid at the time at which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.
2. If the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, the payment shall be deemed for the purposes of this section, if it may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation in a taxation year following the year in which the payment was received by it, not to have

been paid to the other corporation in the taxation year in which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

(12) If another corporation was not associated with a particular corporation in a taxation year, but was associated with the particular corporation at any time during the particular corporation's base period for the taxation year, and all or substantially all of the property of the previously associated corporation that was used by it in carrying on any business during the base period was acquired in any manner by the particular corporation, or by one or more corporations associated with the particular corporation in the taxation year, the following rules apply for the purposes of this section:

Where
previously
associated

1. The previously associated corporation shall be deemed to continue to exist, if it has ceased to exist.
2. The previously associated corporation shall be deemed to be associated with the particular corporation in the taxation year.
3. The previously associated corporation shall be deemed to have had taxation years ending on the same day in each year as the last day of its taxation year in which it was last associated with the particular corporation.

(13) Subsection (12) does not apply if,

Exception

- (a) the previously associated corporation was a predecessor corporation of the particular corporation, or of a corporation associated with the particular corporation in the taxation year; or
- (b) the previously associated corporation was a subsidiary corporation that was wound up before the taxation year and whose parent corporation was either the particular corporation or a corporation associated with the particular corporation in the taxation year.

(14) If a corporation is a member of a partnership, the following rules apply for the purposes of this section:

Corporate
partners

1. If the partnership makes, during a fiscal period of the partnership, an expenditure that would be a

qualified expenditure if made by a corporation, an amount equal to the proportion of the expenditure that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period shall be deemed to be a qualified expenditure made by the corporation in the taxation year of the corporation in which that fiscal period ends.

2. If the partnership disposes of a property that would be an eligible research property of the partnership if the partnership were a corporation, an amount equal to the proportion of the amount that would be included under this section, as a result of the disposition, in the income of the partnership, if the partnership were a corporation, that the corporation's share of the income or loss of the partnership for the fiscal period in which the property was disposed of bears to the total income or loss of the partnership in the fiscal period shall be included in computing the income of the corporation for the taxation year in which the fiscal period ends.

Maximum
deduction by
limited
partner

(15) If a corporation is a limited partner in a limited partnership at any time in a taxation year and is deemed by subsection (14) to have made a qualified expenditure that is an eligible qualified expenditure, the following rules apply:

1. The maximum amount deductible under subsection (2) by the corporation in the taxation year in respect of the corporation's share of a qualified expenditure made by the limited partnership shall not exceed the aggregate of,
 - i. the share of the income, if any, of the limited partnership included in the computation of income of the corporation for the taxation year, and
 - ii. any amount included in the income of the corporation for the taxation year under paragraph 2 of subsection (14).
2. If the amount determined under paragraph 1 is less than the amount that would have been otherwise deductible under this section for the taxation year by the corporation in respect of its share of the eligible qualified expenditure made by the limited partnership, the amount of the difference shall be included in the determination of the corporation's

limited partnership loss for the taxation year in respect of the limited partnership as otherwise determined under subsection 96 (2.1) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act.

(16) A corporation is not entitled to a deduction under this section during a year with respect to any expenditure made by it if, as a result of a transaction or an event, or a series of transactions or events, it is reasonable for the Minister to believe that one of the principal purposes of the carrying out of such a transaction or event or series of transactions or events is to enable the corporation to claim a deduction under this section that would not otherwise be allowed.

Anti-avoidance

12b.—(1) In this section,

Definitions

“amalgamated corporation” means a corporation that is a “new corporation” for the purposes of section 87 of the *Income Tax Act* (Canada);

R.S.C. 1952,
c. 148

“eligible asset”, of a corporation, means prescribed manufacturing and processing machinery or equipment acquired by the corporation after the 31st day of December, 1988, or prescribed pollution control equipment acquired by the corporation after the 17th day of May, 1989, that,

- (a) has not been used by any person for any purpose before being acquired by the corporation,
- (b) is first used by the corporation in Ontario, and
- (c) is used by the corporation for the purpose of earning income from a business;

“eligible assets of the corporation for the taxation year” means the eligible assets that were acquired by the corporation in the taxation year or a prior taxation year and in respect of which,

- (a) the taxation year is the first taxation year in which the corporation may include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of those assets in the determination of the undepreciated capital cost of depreciable property of a prescribed class, and
- (b) no amount has been included under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) by a subsidiary corporation or predecessor corporation in

the determination of the undepreciated capital cost of depreciable property of a prescribed class of the corporation for a taxation year;

“eligible asset pool”, of a corporation for a taxation year, means the amount, if any, by which the aggregate of,

- (a) the eligible cost to the corporation at the end of the taxation year of the eligible assets of the corporation for the taxation year or a prior taxation year,
- (b) the eligible cost to the corporation immediately before disposition of the eligible assets of the corporation for the taxation year or a prior taxation year that were acquired and disposed of by the corporation at any time before the end of the taxation year, and
- (c) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in the determination of the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,

exceeds,

- (d) the aggregate of,
 - (i) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (vii) or (viii) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,
 - (ii) all amounts each of which is an amount included in the income of the corporation, or of a subsidiary corporation or a predecessor corporation, for the taxation year, or for a prior taxation year, under paragraph 12 (1) (i) of the *Income Tax Act* (Canada), as made applicable for the purposes of this Act, in respect of an eligible asset, and
 - (iii) all amounts each of which is the amount of the eligible asset pool of the corporation for a prior taxation year in respect of which the

corporation was entitled under this section to deduct an amount in computing its income;

“eligible cost”, to a corporation at a particular date of eligible assets of the corporation for a taxation year, means,

- (a) in respect of eligible assets that are prescribed manufacturing and processing machinery or equipment, the capital cost to the corporation of the assets at that date, and
- (b) in respect of eligible assets that are prescribed pollution control equipment acquired in a particular taxation year by the corporation, or by a subsidiary corporation or predecessor corporation, the lesser of,

- (i) the capital cost to the corporation of the assets at that date, or

- (ii) the amount by which,

- (A) \$20,000,000 multiplied by the ratio of the number of days in the particular taxation year to 365, or, if the particular taxation year commenced before the 18th day of May, 1989, by the ratio of the number of days in that taxation year after the 17th day of May, 1989, to 365,

exceeds,

- (B) the capital cost to the corporation of the assets included in the eligible asset pool of the corporation for a prior taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, has the same meaning as in subsection 12a (1);

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes a corporation in respect of which a predecessor corporation was an amalgamated corporation;

“specified rate”, of a corporation for a taxation year, means,

- (a) for a taxation year commencing after 1990, 30 per cent, and
- (b) for a taxation year commencing before 1991, the percentage equal to the aggregate of,

10 per cent of (A/C) + 15 per cent of (B/C)

where:

“A” equals the eligible cost to the corporation of all the eligible assets acquired by the corporation before the 1st day of January, 1990 that are included in the eligible asset pool of the corporation for the taxation year;

“B” equals the eligible cost to the corporation of all the eligible assets acquired by the corporation after the 31st day of December, 1989 that are included in the eligible asset pool of the corporation for the taxation year; and

“C” equals the aggregate of A and B;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

Current cost
adjustment
deduction

(2) A corporation may deduct in computing its income from a business for a taxation year a current cost adjustment deduction determined according to the following formula:

$$D = (A/F) \times R$$

Where:

“D” is the current cost adjustment deduction for the taxation year;

“A” is the corporation’s eligible asset pool for the taxation year;

“F” is the corporation’s Ontario allocation factor for the taxation year; and

“R” is the corporation’s specified rate for the taxation year.

Date of
acquisition

(3) A corporation that has constructed, manufactured or produced prescribed manufacturing or processing machinery

or equipment or prescribed pollution control equipment shall be deemed for the purposes of this section to have acquired the manufacturing or processing machinery or equipment after the 31st day of December, 1988, or the pollution control equipment after the 17th day of May, 1989, as the case may be, if,

- (a) the construction, manufacture or production of the machinery or equipment was not substantially completed to the stage where the machinery or equipment, as the case may be, could be used, for the purpose for which it was intended, on or before that date; and
- (b) the Minister is satisfied that the corporation did not delay substantial completion of the machinery or equipment for the principal purpose of becoming eligible to claim a deduction under this section for a taxation year ending after the 31st day of December, 1988.

(4) If a corporation is a member of a partnership that has acquired property in a particular fiscal period that would be an eligible asset under this section if acquired by a corporation on the date of acquisition by the partnership, the following rules apply for the purposes of this section:

Corporate
partners

- 1. The property shall be deemed to have been acquired jointly by the partners, not by the partnership, on the date the property was acquired by the partnership.
- 2. The capital cost to the corporation of its interest in the property for the purposes of this section is that proportion of the capital cost of the property to the partnership at the end of the fiscal period of the partnership during which the property was acquired that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period.
- 3. The property shall be deemed to be an eligible asset of the corporation for the taxation year in which the fiscal period of the partnership ends in which the partnership may first include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of the property in the determination of the undepreciated capital cost of depreciable property of a prescribed class.

4. The amount of the corporation's eligible asset pool for a taxation year is increased by an amount equal to the proportion of any repaid assistance, included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the partnership of depreciable property of a prescribed class at the end of the fiscal period of the partnership ending in the taxation year, that is the corporation's share of the income or loss of the partnership for the fiscal period and reduced by the same proportion of any amount included by the partnership under subparagraph 13 (21) (f) (viii) of that Act for the fiscal period in determining the undepreciated capital cost of the partnership's depreciable property of a prescribed class.

Amalgamations and winding-up

(5) If a corporation claiming a deduction under this section is an amalgamated corporation or a parent corporation, the following rules apply for the purposes of this section:

1. Each eligible asset acquired on a particular date by a subsidiary corporation or a predecessor corporation shall be deemed to have been acquired by the corporation on the same date.
2. The capital cost of the asset to the corporation shall be deemed to be the capital cost thereof to the predecessor corporation or the subsidiary corporation.
3. An eligible asset pool of a subsidiary corporation or a predecessor corporation for a prior taxation year shall be deemed to be an eligible asset pool of the corporation for a prior taxation year.

Anti-avoidance

(6) A corporation is not entitled to a deduction under this section with respect to an asset if the acquisition or use of the asset was part of or related to a series of transactions or events and it is reasonable for the Minister to believe that one of the principal purposes for the acquisition of the asset was for use by another person or for use outside Ontario.

Idem

(7) If a corporation has claimed a deduction under this section for a taxation year commencing after 1990 in respect of an eligible asset, and it is reasonable for the Minister to believe that the asset would have been an eligible asset for a taxation year commencing prior to 1991 were it not that the acquisition, completion, installation or use of the asset was delayed by the corporation for the purpose of claiming a deduction under this section at a higher specified rate, the

asset shall be deemed to be an eligible asset for the earlier taxation year.

7. Subsection 13 (4) of the Act is amended by adding the following clause:

- (e) if the property is an interest in a partnership,
 - (i) there shall be deducted in respect of each fiscal period of the partnership ending before that time all amounts deducted by the corporation for a taxation year commencing before that time,
 - (A) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (B) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation, and
 - (ii) there shall be added in respect of each fiscal period of the partnership ending before that time all amounts included in the income of the corporation for a taxation year commencing before that time under subsection 12a (14),

except to the extent that all or a portion of any such amounts may reasonably be considered to have been included in the corporation's limited partnership loss in respect of the partnership for the taxation year in which the fiscal period of the partnership ended.

8. The Act is further amended by adding the following section:

16a. For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act as they read on the 31st day of December, 1986 with respect to dispositions made by a corporation before the 1st day of January, 1987.

Reserve on
disposition of
resource
property
R.S.C. 1952,
c. 148

9.—(1) Subsection 18 (5) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed.

(2) Subsection 18 (7) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 7, is repealed and the following substituted:

Change in
control
R.S.C. 1952,
c. 148

(7) Subsections 66 (11) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Idem

(7a) Subsections 66 (11.4) and (11.5) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act with respect to acquisitions of Canadian resource properties.

(3) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by striking out “in sections 18a and 18b” in the amendment of 1988 and substituting “in sections 18a, 18b and 18c”.

(4) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by relettering clause (ia) as clause (ic) and by adding the following clauses:

(ga) “original owner”, of a Canadian resource property, means the person who would be the “original owner” of that property under paragraph 66 (15) (g.11) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property”, “foreign exploration and development expenses” and to subsections 66 (2), (3) and (4) and 66.7 (2) and (13) of that Act;

.

(ha) “predecessor owner”, of a Canadian resource property, means the person who would be the “predecessor owner” of that property under paragraph 66 (15) (g.4) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property” and to subsections 66.7 (2) and (15) of that Act;

.

(ia) “production”, from a Canadian resource property, has the meaning given to that expression by paragraph 66 (15) (h.01) of the *Income Tax Act* (Canada);

da), except that with respect to iron ore, the production from a Canadian resource property means the iron ore produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent;

- (ib) “reserve amount” has the meaning given to that expression by paragraph 66 (15) (*h.02*) of the *Income Tax Act* (Canada).

10.—(1) Clause 18a (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by adding at the beginning “subject to section 18d”.

(2) Subclause 18a (b) (iii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by inserting after “(xi)” in the second line “and (xiii)”.

(3) Section 18a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

- (d) the reference to the Minister in clause 66.1 (6) (a) (ii.1) (D) of the *Income Tax Act* (Canada) shall be read as a reference to the Minister of National Revenue.

11.—(1) Section 18b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “to (12.73)” in the first line and substituting “to (12.74)”.

(2) Clause 18b (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “(12.69) and (12.73)” in the second line and substituting “(12.69), (12.73) and (12.74)”.

(3) Section 18b of the Act is further amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

- (d) expenditures described in subparagraph 66.1 (6) (a) (i) or (ii.1) of that Act renounced before the 14th day of October, 1988 shall be deemed to have been renounced within ninety days after the 31st day of December, 1987.

12. The Act is further amended by adding the following sections:

Successor
rules
R.S.C. 1952,
c. 148

18c. Section 66.7 of the *Income Tax Act* (Canada), other than subsections (2), (8), (13) and (15) and paragraphs (10) (f) and (h), is applicable for the purposes of this Act, except that in the application thereof,

- (a) references to "Canadian exploration and development expenses" shall be read as references to only Canadian exploration and development expenses incurred before the 20th day of May, 1981; and
- (b) the section shall be read without the references to "foreign exploration and development expenses", "foreign resource property" and "foreign resource properties".

Proration of
"CDE" and
"COGPE"
for short
taxation
years

18d. Subsection 66 (13.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the reference to paragraph 66.2 (2) (c) of that Act shall be deemed to include a reference to clause 18a (b).

Limited
partnership
resource
expenditures

18e. Section 66.8 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the foreign exploration and development expenses referred to in clause (1) (a) (i) (D) of that Act shall be limited to only those foreign exploration and development expenses that are deductible.

13. Section 20 of the Act is amended by adding the following subsections:

Application
of R.S.C.
1952, c. 148,
s. 67.3

(3) In the application of section 67.3 of the *Income Tax Act* (Canada) for the purposes of this Act, references in paragraphs (c) and (d) thereof to "this Act" shall be read as references to the *Income Tax Act* (Canada).

Treatment of
foreign
resource
properties on
amalgamation

(4) In the application of subsection 69 (13) of the *Income Tax Act* (Canada) for the purposes of this Act, the proceeds of disposition of a foreign resource property shall be deemed to be the cost amount to the corporation of the foreign resource property immediately before the amalgamation or merger.

14. Section 21 of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 7, is repealed and the following substituted:

Benefit
conferred on
corporation

21.—(1) If a person at any time confers a benefit on a corporation either directly or indirectly by any means, the amount of the benefit shall be included in computing the corporation's income or taxable income earned in Canada for the

taxation year in which the benefit is conferred, to the extent that,

- (a) the amount of the benefit is not otherwise included in the corporation's income or taxable income earned in Canada; and
- (b) the amount of the benefit would be so included if the amount were a payment made directly by the person to the corporation and the corporation were resident in Canada.

(2) If it is established that a transaction was entered into by persons dealing at arm's length, in good faith and not pursuant to or as part of any other transaction, and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction shall be regarded for the purpose of this section as having conferred a benefit on a party with whom he or she was dealing.

15. Section 25 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, 1985, chapter 11, section 10, 1986, chapter 39, section 7 and 1988, chapter 42, section 10, is further amended by adding the following subsection:

(7) In the application of subsection 96 (2.1) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under paragraph 96 (2.1) (a) of that Act,

Limited
partnership
losses
R.S.C. 1952,
c. 148

- (a) there shall be added all amounts deducted by the corporation for the taxation year,
 - (i) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (ii) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and
- (b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) in respect of dispositions made by the partnership.

16. The Act is further amended by adding the following section:

Application
of R.S.C.
1952, c. 148,
s. 132.1

26a.—(1) A corporation that is required under paragraph 132.1 (1) (d) of the *Income Tax Act* (Canada) to include an amount in its income for a taxation year for the purposes of that Act shall include the amount in its income for the taxation year for the purposes of this Act.

Mutual fund
trust unit

(2) In computing the adjusted cost base to the corporation of a unit in a mutual fund trust, there shall be included any amount added to the adjusted cost base of the unit under subsection 132.1 (2) of that Act for the purposes of that Act.

17.—(1) Subsection 27 (2) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 10, is repealed and the following substituted:

Receipts for
gifts to
charities, etc.

(2) In the application of subsections 110.1 (2) and (3) of the *Income Tax Act* (Canada) for the purposes of this Act, a “receipt” includes a photostatic reproduction of the receipt.

(2) Subsection 27 (3) of the Act is repealed and the following substituted:

Interpretation

(3) In the application of the definition of “registered Canadian amateur athletic association” and “registered charity” in subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to “Minister” shall be read as references to the Minister of National Revenue.

(3) Section 27 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8, 1985, chapter 11, section 11, 1986, chapter 39, section 8 and 1988, chapter 42, section 11, is further amended by adding the following subsections:

Idem

R.S.C. 1952,
c. 148

(10) In the application of paragraph 111 (4) (e) of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) the reference therein to the Minister shall be read as a reference to the Minister of National Revenue; and

(b) the paragraph shall be read without reference to the words “under this Part”.

Idem

(11) In the application of subsections 111 (5.1), (5.2) and (5.3) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to “this Part” shall be read as references to Part II of this Act.

(12) In the application of paragraph 111 (1) (e) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under clause 111 (1) (e) (ii) (B) of that Act,

Limited
partnership
losses

- (a) there shall be included all amounts deducted by the corporation for the taxation year under,
 - (i) section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in that fiscal period, and
 - (ii) section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and
- (b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) with respect to dispositions made by the partnership.

18. The Act is further amended by adding the following section:

27a.—(1) The Minister may direct that the maximum amount that may be deducted by a corporation in a taxation year under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in respect of a non-capital loss incurred in a particular taxation year, shall not exceed the amount determined under subsection (2) if,

Reduction of
non-capital
loss
deductible
R.S.C. 1952,
c. 148

- (a) the corporation deducted an amount under section 12a or 12b, or both, in determining the amount of its non-capital loss for the particular taxation year and the Ontario allocation factor of the corporation for the taxation year in which an amount in respect of the loss is to be deducted is greater than 120 per cent of the Ontario allocation factor for the particular taxation year in which the loss was incurred; or
- (b) the Minister has directed the maximum amount deductible in respect of the loss for a prior taxation year.

(2) If the Minister makes a direction under subsection (1) in respect of a loss to be deducted in a taxation year of a corporation, the maximum amount that may be deducted by the corporation in respect of a non-capital loss incurred in a particular taxation year shall be determined according to the following formula:

Maximum
amount

$$D = (A + B) - C$$

Where:

“D” is the maximum amount deductible by the corporation in the taxation year in respect of the non-capital loss incurred in the particular taxation year;

“A” is the amount by which the non-capital loss for the particular taxation year exceeds the total of any amounts deducted under section 12a or 12b or both sections for the particular taxation year;

“B” is the allocation adjustment as determined under clause (3) (c); and

“C” is the aggregate of all amounts, each of which is the amount by which the non-capital loss deducted under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in computing the taxable income of the corporation for a prior taxation year, exceeds the allocation adjustment in respect of the loss for the prior taxation year.

Idem

(3) For the purposes of this section,

- (a) “Ontario allocation factor” has the same meaning as in subsection 12a (1);
- (b) the allocation factor for the taxation year in which the loss arose is the allocation factor of the corporation that incurred the loss in that year;
- (c) the allocation adjustment is the product obtained where the amount of a non-capital loss incurred in a particular taxation year attributable to amounts deducted under section 12a or 12b is multiplied by the ratio of the Ontario allocation factor for the particular taxation year to the Ontario allocation factor for the year for which the allocation adjustment is being determined; and
- (d) the amount of a non-capital loss incurred in a particular taxation year which is attributable to amounts deducted under section 12a or 12b is the amount by which the lesser of,
 - (i) the non-capital loss for the particular taxation year, or

- (ii) the total of all amounts, each of which is an amount deducted under section 12a or 12b,

exceeds,

- (iii) the aggregate of all amounts, each of which is the amount deducted under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in computing its taxable income for a taxation year prior to the taxation year for which the allocation adjustment is being determined, in respect of the non-capital loss incurred in the particular taxation year, multiplied by the ratio of the Ontario allocation factor for the taxation year in which the amount in respect of the loss was deducted to the Ontario allocation factor for the particular taxation year in which the loss was incurred.

19. Section 29 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, 1985, chapter 11, section 12 and 1988, chapter 42, section 12, is further amended by adding the following subsections:

(4) Section 115.1 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act where the purchaser referred to therein is not a non-resident individual or a non-resident partnership and, in the application thereof, references therein to the "Minister" shall be read as references to the Minister of National Revenue.

Tax deferral
for non-
resident
organization
R.S.C. 1952,
c. 148

(5) The taxable income earned in Canada for a taxation year of a corporation referred to in subsection 5 (12) shall be determined according to the following formula:

Taxable
income

$$I = P \times C/T$$

Where:

"I" equals the corporation's taxable income earned in Canada for the taxation year;

"P" equals the profits of the corporation for the taxation year derived from the transportation of goods by commercial vehicle shipped to, from or between locations in Ontario;

“C” equals the total distance travelled in Ontario during the taxation year related to shipments described in “P”; and

“T” equals “C” plus the total distance travelled outside Ontario during the taxation year related to shipments described in “P”.

20. Section 32 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 9 and 1985, chapter 11, section 15, is further amended by adding the following subsection:

Idem

(4) In this section, “foreign investment income” of a corporation for a taxation year does not include interest income attributable to a loan for any period in the year during which the loan was an “eligible loan” as defined in subsection 33.1 (1) of the *Income Tax Act* (Canada).

R.S.C. 1952,
c. 148

21. Subsection 33a (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 17, is repealed and the following substituted:

New
enterprise
incentive

(1) There may be deducted from the tax otherwise payable by a corporation under this Part for the corporation’s first, second or third taxation year ending after the date of its incorporation an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if,

- (a) the corporation was incorporated after the 13th day of May, 1982 and before the 21st day of April, 1988;
- (b) the corporation commenced carrying on an active business in Canada before the 21st day of April, 1988; and
- (c) the corporation is eligible to claim and has claimed a deduction under section 125 of the *Income Tax Act* (Canada) from the tax otherwise payable by the corporation under that Act for the taxation year.

R.S.C. 1952,
c. 148

Incorporation
before the
1st day of
May, 1988

(2) For the purposes of subsection (1), a corporation incorporated after the 20th day of April, 1988 and before the 1st day of May, 1988 shall be deemed to have been incorporated before the 21st day of April, 1988 and to have commenced carrying on an active business in Canada before the 21st day of April, 1988 if,

- (a) arrangements for the incorporation of the corporation were substantially advanced and application for

the incorporation of the corporation had been prepared and sent to the appropriate government authority prior to the 21st day of April, 1988;

- (b) one or more persons commenced carrying on an active business prior to the 21st day of April, 1988, in trust for the corporation to be incorporated; and
- (c) all agreements entered into before the date of incorporation of the corporation by the person or persons carrying on active business in trust for it were adopted by the corporation after its incorporation.

22.—(1) Clause 40 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, is repealed and the following substituted:

- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as,
 - (i) 10 1/3 per cent in its application to taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990, and
 - (ii) 11 5/8 per cent in its application to taxation years ending after the 31st day of December, 1989.

(2) Subsection 40 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11, section 19, is repealed and the following substituted:

(4) In the application of clauses 131 (6) (a) (i) (A) and 131 (6) (b) (ii) (C) of the *Income Tax Act* (Canada) for the purposes of this Act, the multiplication factor referred to therein shall be read as,

Idem
R.S.C. 1952,
c. 148

- (a) “9 21/31 times” for taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990; and
- (b) “8 56/93 times” for taxation years ending after the 31st day of December, 1989.

23. Section 45 of the Act is amended by adding the following subsection:

(3) Paragraph 138 (3) (g) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

Federal
investment
tax not
deductible
R.S.C. 1952,
c. 148

24.—(1) Clause 49 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 14, is amended by striking out “(o.2) or (o.3)” in the third line and substituting “(o.2), (o.3), (o.4) or (t)”, and by adding at the end “or”.

(2) Clause 49 (1) (b) of the Act is amended by striking out “or” at the end.

(3) Clause 49 (1) (c) of the Act is repealed.

(4) Subsection 49 (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 16, is repealed and the following substituted:

Application
of rules in
R.S.C. 1952,
c. 148, s. 149

(4) The rules in subsections 149 (2), (3), (4), (4.1), (4.2), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Idem

(4a) In the application of paragraph 149 (1) (t) and subsection 149 (4.1) of the *Income Tax Act* (Canada), references to the Superintendent of Financial Institutions shall be read as references to the Superintendent of Financial Institutions for Canada.

(5) Subsection 49 (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 14, is repealed and the following substituted:

Idem

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be read as a reference to Part II of this Act and paragraph 149 (10) (b) of that Act, including any predecessor of that paragraph, shall be read without reference to “foreign resource property”.

25.—(1) Subsection 53 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Loan and
trust
companies,
bank
mortgage
subsidiaries
1987, c. 33

(3) Despite subsection (1), the taxable paid-up capital for a taxation year of a corporation registered under the *Loan and Trust Corporations Act*, 1987, or that is a bank mortgage subsidiary as defined in section 1 of that Act, is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

(2) Subsection 53 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(5) In computing its taxable paid-up capital under subsection (2), a bank shall include all dividends, other than stock dividends, received from other corporations and shall exclude its share of all accumulated earnings and losses of other corporations.

Computation
of bank's
paid-up
capital

(3) Subsection 53 (6) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(6) In computing its taxable paid-up capital, a corporation referred to in subsection (3) shall include all dividends received from other corporations, other than stock dividends, and shall exclude its share of all accumulated earnings or losses of other corporations.

Computation
of paid-up
capital of
loan and
trust
companies,
bank
mortgage
subsidiaries

26. Subclause 54 (1) (c) (iv) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18 and amended by 1986, chapter 39, section 12, is repealed and the following substituted:

(iv) loans and advances that have been issued for a term of less than 120 days or that have been held by the corporation for a period of less than 120 days before the end of the taxation year are deemed not to be loans and advances to other corporations if the loans and advances are to a corporation, whether or not incorporated in Canada, that is,

(A) carrying on the business of a bank,

(B) a corporation registered under the *Loan and Trust Corporations Act, 1987*, or that would be required to be registered under that Act if it were carrying on business in Ontario, or

1987, c. 33

(C) a bank mortgage subsidiary as defined in section 1 of the *Loan and Trust Corporations Act, 1987*.

27.—(1) Subsection 58 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second line and substituting “referred to in subsection 53 (3)”.

(2) Subsection 58 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fifth line and substituting “four-fifths of 1 per cent”.

28.—(1) Subsection 59 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second and third lines and in the sixth and seventh lines and substituting in each instance “referred to in subsection 53 (3)”.

(2) Subsection 59 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fourth line and substituting “four-fifths of 1 per cent”.

29. Section 60 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 26, is repealed and the following substituted:

Where no
tax payable

60. Despite subsections 58 (1) and 59 (1), no tax is payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), where neither the corporation’s total assets at the end of the taxation year nor its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000.

30.—(1) Subsections 61 (1) and (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed and the following substituted:

Definitions

(1) For the purposes of this section and section 60,

“gross revenue”, of a corporation for a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the gross revenue of the partnership, as recorded in the books and records of the partnership for all fiscal periods of the partnership ending in or coinciding with the taxation year, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership;

“total assets”, of a corporation at the end of a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the total assets of the partnership at the end of the partnership’s last fiscal period ending in or coinciding with the taxation year of the corporation, as recorded in the books and records of the partnership for the fiscal period, as the pro-

portion of the profits of the partnership to which the corporation is entitled as a partner in the partnership.

(2) Despite subsections 58 (1) and 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), is, Flat tax

- (a) the lesser of \$100 and the tax that would otherwise be payable under this Part, but for this subsection, where,
 - (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, and
 - (ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year does not exceed \$1,000,000;
- (b) the lesser of \$200 and the tax that would otherwise be payable under this Part, but for this subsection, where,
 - (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, but neither its total assets nor its gross revenue exceed \$1,500,000, and
 - (ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year exceeds \$1,000,000 but does not exceed \$2,000,000;
- (c) the lesser of \$500 and the tax that would otherwise be payable under this Part, but for this subsection, where,
 - (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,500,000, and
 - (ii) the corporation's taxable paid-up capital as determined under Division B of this Part for the taxation year does not exceed \$2,000,000; and

- (d) where the taxable paid-up capital of the corporation as determined under Division B of this Part for the taxation year exceeds \$2,000,000 but does not exceed \$2,300,000, the lesser of,
 - (i) the tax that would otherwise be payable under this Part, but for this subsection, and
 - (ii) the amount by which the tax that would otherwise be payable under this Part if no deduction was made under subsection 59 (1) exceeds 1.83 per cent of the amount by which \$2,300,000 exceeds the taxable paid-up capital.

(2) Subsection 61 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 16, is repealed and the following substituted:

Associated
corporations,
partnerships

(4) Section 60 and subsection (2) do not apply to a corporation if,

- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$2,000,000; or
- (b) the corporation is a member of a partnership or a connected partnership and the aggregate of,
 - (i) the taxable paid-up capital of the corporation, and
 - (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or of the connected partnership that are allocated under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$2,000,000.

(3) Subsections 61 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed.

31.—(1) Sub-subclause 61a (2) (a) (ii) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by striking out “subsection 61 (1) or (2)” in the second and third lines and substituting “section 60 or subsection 61 (2)”.

(2) Sub-subclause 61a (2) (b) (i) (B) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by inserting after “section” in the third line “60 or”.

32. Section 62 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 27, is repealed and the following substituted:

62. The tax imposed by this Part is not payable by any corporation for a taxation year if, When tax not payable

- (a) the corporation is subject to tax under section 66 for the taxation year;
- (b) the corporation would not be subject to tax under this Act for the taxation year but for clause 2 (2) (c); or
- (c) the corporation would not have a permanent establishment in Ontario for the taxation year but for subsection 5 (12).

33.—(1) Subsection 63 (1) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out “section 58 or 60” in the tenth line and substituting “this Part”.

(2) Subsection 63 (2) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18 and amended by 1985, chapter 11, section 28, is repealed and the following substituted:

(2) Except as provided in section 60 and subsection (3), a family farm corporation, a family fishing corporation and every corporation referred to in sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of any tax otherwise payable under this Part, pay a tax of \$100. Family fishing and family farm corporations R.S.C. 1952, c. 148

34. Section 64 of the Act is amended by striking out “Subject to section 60” in the first line.

35. Section 65 of the Act is amended by striking out “except that the tax payable under this Part as reduced by this

section shall in no case be less than \$50'' in the sixth, seventh and eighth lines.

36. Subsection 66 (9) of the Act is repealed.

37.—(1) Subsection 67 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, and subsection (1a), as enacted by the Statutes of Ontario, 1985, chapter 11, section 29 and amended by 1986, chapter 39, section 14, of the Act are repealed and the following substituted:

Annual tax
return

(1) Every corporation shall deliver to the Minister on or before the last day of the sixth month following the end of the taxation year a return sufficient for the purposes of carrying out this Act.

Exception

(1a) Subsection (1) does not apply to a corporation that is exempt under subsection (1d) from the requirement to deliver a return for the taxation year.

Amended
return for
prior taxation
year

(1b) Every corporation that is not required under subsection (1) to deliver a return for a taxation year shall deliver the return within the time required under subsection (1) if, by reason of a loss sustained by the corporation in the taxation year, the corporation is delivering an amended return for a prior taxation year for the purposes of subsection 73 (8).

Notice or
demand

(1c) Every corporation upon receipt of a notice or demand in writing from the Minister, or from any officer of the Ministry of Revenue authorized by the Minister to make such a demand, shall deliver to the Minister a return for each taxation year specified in the notice or demand, sufficient for the purposes of carrying out this Act.

Exception to
requirement
to deliver a
return

(1d) A corporation, other than a bank, a corporation referred to in subsection 53 (3) or an insurance corporation to which Part IV applies, is exempt from the requirement to deliver a return for a taxation year to the Minister under subsection (1) if,

- (a) the corporation was a Canadian-controlled private corporation throughout the taxation year;
- (b) the corporation has filed a return for the taxation year with the Minister of National Revenue under Part I of the *Income Tax Act* (Canada);
- (c) the corporation had no taxable income under this Act for the taxation year; and

- (d) no tax was payable under this Act by the corporation for the taxation year.

(2) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is amended by striking out “Notwithstanding subsection (1)” in the first line and substituting “Despite subsection (1a)”.

38.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) Every corporation or person who fails to deliver a return for a taxation year as and when required under section 67 shall pay a penalty of, Penalty for failure to deliver return

- (a) an amount equal to 10 per cent of the tax unpaid when the return is required to be delivered, if the amount of unpaid tax payable by the corporation for the taxation year is less than \$10,000; and
- (b) \$1,000, if at the time the return is required to be delivered the amount of unpaid tax payable by the corporation for the taxation year is \$10,000 or more.

(2) Subsections 68 (2), (3) and (4) of the Act are repealed and the following substituted:

(2) No corporation is liable to a penalty under subsection (1) for failing to file a return as and when required under subsection 67 (1) if it is reasonable at the time when the corporation would otherwise be required to deliver a return under subsection 67 (1) to consider the corporation to be exempt under subsection 67 (1d) from the requirement to file the return. Saving

(3) Every person is guilty of an offence who,

- (a) makes, participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade the payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of records or books of account;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, or assents to or

Offence,
false
statements

acquiesces in the omission, to enter a material particular in records or books of account; or

- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of taxes imposed by this Act.

Penalty

(3a) Every person who is guilty of an offence under subsection (3) is, in addition to any penalty otherwise provided by this Act, liable on conviction to a fine of not less than the greater of \$500 and 50 per cent of the tax payable under this Act and sought to be evaded and not more than double the amount of such tax, or to imprisonment for a term of not more than two years, or to both the fine and the imprisonment.

Penalty for
false
statements

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") delivered or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income for the year, or other subject of tax reported by it in its return for the year, that portion of the understatement of income, or of any other subject of tax, for the year, as applicable, that is reasonably attributable to the false statement, and if the tax payable for the year under this Act were computed by subtracting from the deductions from tax otherwise payable by the corporation for the year such portion of any such deduction that may reasonably be attributable to the false statement,

exceeds,

- (b) the tax for the year that would be payable by the corporation under this Act had the tax payable for the year been assessed on the basis of the information provided in the return for the taxation year.

(4a) Subsection (4) does not apply if the person has been convicted of an offence under subsection (3) for an offence related to the same evasion of or attempt to evade the payment of tax, unless a penalty is imposed upon the corporation under subsection (4) before the commencement of proceedings against the person under subsection (3).

Application
of subs. (4)

(3) Section 68 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 30, is further amended by adding the following subsections:

(6) Every corporation that fails to report an amount required to be included in computing its income or other subject of tax in a return delivered under section 67 for a taxation year, and that has failed to report an amount required to be so included in any return delivered under section 67 for any of the preceding three taxation years is liable to a penalty equal to 25 per cent of the amount, if any, by which,

Penalty for
repeated
failure to
report an
amount

- (a) the tax for the taxation year that would be payable by the corporation under this Act if its taxable income or other subject of tax for the taxation year were computed by including the amount the corporation failed to report,

exceeds,

- (b) the tax for the taxation year that would be payable by the corporation under this Act had the tax been assessed on the basis of only the information provided in the return for the taxation year.

(7) Subsection (6) does not apply if the corporation has been assessed a penalty under subsection (4) with respect to a false statement concerning the same amount.

Idem

39.—(1) Sub-subclause 70 (2) (a) (i) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

(A) the tax payable for the taxation year, or

.

(2) Sub-subclause 70 (2) (a) (ii) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year under sub-subclause (i) (A), or

.

(3) Subclause 70 (2) (b) (i) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 31, is repealed and the following substituted:

- (i) subject to subsection (2a), on or before the last day of the third month following the taxation year if,
- (A) the corporation was a Canadian-controlled private corporation throughout the taxation year, and
- (B) its taxable income for the taxation year immediately before that taxation year did not exceed \$200,000, or

.

40. Subsection 72 (5a) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 32, is repealed and the following substituted:

Application
of subs. (5)

(5a) Subsection (5) does not apply if the tax payable by the corporation by virtue of the reassessment is greater than the tax previously assessed and the corporation has failed to submit, in the return required by subsection 67 (1), (1b) or (1c), the information required by subsection 67 (2).

41.—(1) Clause 73 (1) (b) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 33, is repealed and the following substituted:

- (b) assess the tax for the taxation year and the interest and penalties payable, if any, on the basis of the corporation's return for the taxation year; and

.

(2) Subsection 73 (3) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20 and 1988, chapter 42, section 18, is repealed and the following substituted:

Provisions
applicable
R.S.C. 1952,
c. 148

(3) Paragraphs 56 (1) (l) and 60 (o) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and this Part, as they relate

to an assessment or reassessment and to assessing tax and reassessing tax, apply with necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) do not apply to determinations made under subsection (2) or (2a) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the corporation.

(3) Clause 73 (7) (a) of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

- (a) at any time, if the corporation, or a person delivering a return for the taxation year or acting on its behalf,
 - (i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing a return or in supplying any information under this Act,
 - (ii) has failed to deliver any return for the taxation year required to be delivered under section 67 or has failed to file financial statements with the return,
 - (iii) has been negligent in supplying or in failing to supply any information required under this Act,
 - (iv) has filed with the Minister a waiver in the prescribed form on or before the later of,
 - (A) the expiry of a four-year period commencing on the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a taxation year, and
 - (B) the latest day such a waiver could be filed under this Act for any previous taxation year,
 - (v) has filed a waiver under the *Income Tax Act* (Canada) within the time and in the form required by subsection 152 (4) of that Act, or

- (vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act.

(4) Clause 73 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20 and amended by 1988, chapter 42, section 18, is repealed and the following substituted:

- (b) within seven years from the day of mailing of a notice of the original assessment or a notification that no tax is payable for the taxation year where,
- (i) the corporation has claimed a deduction for the taxation year under section 41 or section 111 of the *Income Tax Act* (Canada), as applicable for the purposes of this Act,
 - (ii) as a consequence of a transaction involving the corporation and a non-resident person with whom it was not dealing at arm's length, there is reason to assess or reassess the corporation's tax for any relevant taxation year, or
 - (iii) as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, there is reason to assess or reassess the corporation's tax for any relevant taxation year; and

.

(5) Section 73 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22, 1984, chapter 29, section 20, 1985, chapter 11, section 33 and 1988, chapter 42, section 18, is further amended by adding the following subsections:

Notice of
determination

(2a) Where at any time the Minister ascertains the tax consequences to a corporation under section 5a with respect to a transaction, the Minister may determine any amount that is relevant for the purposes of computing the amount of the tax consequences and send to the corporation with all due dispatch a notice of determination stating the amount so determined.

No determi-
nation for
prior years

(2b) A determination of an amount shall not be made under subsection (2a) at a time where the amount is relevant

only for the purposes of computing the tax consequences to a corporation for a taxation year ending before the time.

.

(4a) Subject to the corporation's rights of objection and appeal in respect of the determination and to any redetermination made by the Minister, a determination made by the Minister under subsection (2a) with respect to a corporation is binding on both the Minister and the corporation for the purpose of calculating the tax consequences to the corporation for any taxation year.

Determina-
tion
binding

.

(7b) Where a corporation is exempt under subsection 67 (1d) from the requirement to deliver a return under subsection 67 (1) for the taxation year, an original notice of assessment shall be deemed, for the purposes of subsection (7), to be sent to the corporation on the day that is six months after the end of the taxation year.

Deemed
assessment

(7c) Subsection (7b) does not apply if the Minister sends an original notice of assessment to the corporation for the taxation year within fifty-four months after the end of the taxation year.

Exception

42. Subsection 75 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 34, is further amended by striking out the portion before clause (a) and substituting the following:

(1) If a return required to be delivered by a corporation under section 67 for a taxation year is delivered within four years from the end of the taxation year, the Minister,

Refunds

.

43. Subsection 77 (1) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 21, is repealed and the following substituted:

(1) Subject to subsection 85 (3), a corporation that objects to an assessment may within 180 days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Notice of
Objection

(1a) For the purposes of this section and sections 78 to 85, an assessment includes a determination made by the Minister

Assessment
includes
determination

under subsection 73 (2a) and a notice of assessment includes a notice of determination, a reassessment includes a redetermination by the Minister and an additional assessment includes an additional determination.

44.—(1) Subsection 85 (2) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by striking out the portion before clause (a) and substituting the following:

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies or a specified assessment that has met the conditions under clause (3) (b), be bound by,

.

(2) Subsection 85 (3) of the Act is repealed and the following substituted:

Application
of ss. 77 to
83

(3) Sections 77 to 83 do not apply,

(a) to a reassessment referred to in subsection (2); and

(b) to a specified assessment if the corporation has served a notice of objection to the assessment or determination issued under the *Income Tax Act* (Canada), referred to in clause (5) (c), in which the same issues have been raised as would have been raised in an objection to the specified assessment.

R.S.C. 1952,
c. 148

(3) Section 85 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by adding the following subsection:

Specified
assessment,
defined

(5) For the purposes of this Part, an assessment in respect of a particular taxation year, or a part thereof, is a specified assessment if,

(a) the assessment or the part thereof, as applicable, states on its face that it is a specified assessment under this section;

(b) the assessment or the part thereof, as applicable, is an assessment or determination involving the application of section 5a in respect of the taxation year; and

(c) a notice of assessment or determination has been issued to the corporation under the *Income Tax Act*

(Canada) involving the application of section 245 of that Act in respect of the same taxation year or transaction.

45.—(1) Subsection 86 (1) of the Act is amended by adding “and” at the end of clause (b), by striking out “and” at the end of clause (c) and by striking out clause (d).

(2) Subsection 86 (4) of the Act, as re-enacted by the Statutes of Ontario, chapter 29, section 24, is repealed.

46.—(1) Subsection 88 (1) of the Act is amended by striking out “\$25” in the fourth line and substituting “\$200”.

(2) Subsection 88 (2) of the Act is amended by striking out “\$25” in the third line and substituting “\$200”.

47. Subsections 91 (1) and (2) of the Act are repealed and the following substituted:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confidentiality

- (a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;
- (b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;
- (c) to his or her legal counsel; or
- (d) with the consent of the person to whom the information or material relates.

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Offence and penalty

48.—(1) Except as provided in subsections (2) to (52), this Act comes into force on the day it receives Royal Assent.

Commencement and Application

Commence-
ment,
November 13,
1981

(2) Subsection 27 (11) of the Act, set out in subsection 17 (3), with respect to subsections 111 (5.1) and (5.2) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to acquisitions of control occurring after the 12th day of November, 1981 other than those occurring before the 1st day of January, 1983 where the arrangements therefor were substantially advanced and evidenced in writing on the 12th day of November, 1981.

Idem

(3) Subsection 49 (6) of the Act, set out in subsection 24 (5), shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations that became taxable after the 12th day of November, 1981.

Idem

(4) Subsection 63 (2) of the Act, set out in subsection 33 (2), with respect to the deletion of subsection 149 (10) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations which became subject to tax after the 12th day of November, 1981.

Commence-
ment,
January 1,
1985

(5) Clause 1 (1) (ab) of the Act, set out in subsection 1 (4), shall be deemed to have come into force on the 1st day of January, 1985, and applies to anything sent by mail after the 31st day of December, 1984.

Idem

(6) Section 7 of the Act, set out in section 4, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years ending after the 31st day of December, 1984.

Idem

(7) Subsection 29 (4) of the Act, set out in section 19, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years commencing after the 31st day of December, 1984.

Commence-
ment,
January 1,
1986

(8) Subsections 12 (6) and (6aa) of the Act, set out in subsection 5 (2), shall be deemed to have come into force on the 1st day of January, 1986, and apply to amounts paid or payable after 1985.

Commence-
ment,
January 1,
1987

(9) Section 16a of the Act, set out in section 8, shall be deemed to have come into force on the 1st day of January, 1987, and applies to dispositions made by a corporation before the 1st day of January, 1987.

Idem

(10) Clause 49 (1) (a) of the Act, set out in subsection 24 (1), with respect to the addition of the reference to paragraph 149 (1) (o.4) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1987, and applies to taxation years ending after the 31st day of December, 1986.

(11) Subsection 18 (7a) of the Act, set out in subsection 9 (2), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of Canadian Resource Properties occurring after the 15th day of January, 1987 other than those occurring before the 1st day of January, 1988, where the corporation acquiring the property was obliged on the 15th day of January, 1987, to acquire the property under the terms of a written agreement entered into before the 16th day of January, 1987.

Commence-
ment,
January 16,
1987

(12) Subsection 20 (4) of the Act, set out in section 13, shall be deemed to have come into force on the 16th day of January, 1987, and applies to amalgamations and mergers occurring after the 15th day of January, 1987.

Idem

(13) Subsection 27 (10) of the Act, set out in subsection 17 (3), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(14) Subsection 27 (11) of the Act, set out in subsection 17 (3), with respect to subsection 111 (5.3) of the Federal Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(15) Subsection 66 (9) of the Act, set out in section 36, shall be deemed to have come into force on the 16th day of January, 1987, and applies to taxation years ending after the 15th day of January, 1987.

Idem

(16) The following shall be deemed to have come into force on the 18th day of February, 1987, and apply to taxation years ending after the 17th day of February, 1987:

Commence-
ment,
February 18,
1987

- (a) subsection 18 (5) of the Act, set out in subsection 9 (1);
- (b) subsection 18 (7) of the Act, set out in subsection 9 (2);

(c) subsection 18 (14) of the Act, set out in subsections 9 (3) and (4);

(d) subclause 18a (b) (iii) of the Act, set out in subsection 10 (2); and

(e) section 18c of the Act, set out in section 12.

Commence-
ment,
March 20,
1987

(17) Section 18b of the Act, set out in subsection 11 (1), and clause 18b (a) of the Act, set out in subsection 11 (2), shall be deemed to have come into force on the 20th day of March, 1987, and apply after the 19th day of March, 1987.

Commence-
ment,
April 1,
1987

(18) Clauses 18a (b), (c) and (d) of the Act, set out in subsection 10 (3), shall be deemed to have come into force on the 1st day of April, 1987, and applies after the 31st day of March, 1987.

Commence-
ment,
June 6,
1987

(19) Clause 18a (b) of the Act, set out in subsection 10 (1), and section 18d of the Act, set out in section 12, shall be deemed to have come into force on the 6th day of June, 1987, and apply to taxation years commencing after the 5th day of June, 1987.

Commence-
ment,
June 18,
1987

(20) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), with respect to section 66.8 of the Federal Act, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(21) Section 18e of the Act, set out in section 12, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(22) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), shall be deemed to have come into force, with respect to paragraph 67.1 (2) (d) of the Federal Act, on the 18th day of June, 1987, and applies to amounts incurred after the 17th day of June, 1987 in respect of food and beverages consumed and entertainment enjoyed after the 31st day of December, 1987.

Idem

(23) The following shall be deemed to have come into force on the 18th day of June, 1987, and apply to taxation years that commence after the 17th day of June, 1987 and end after the 31st day of December, 1987:

(a) subsection 12 (9b) of the Act, set out in subsection 5 (6);

- (b) subsections 12 (6c) and (9c) of the Act, set out in subsection 5 (8);
- (c) subsection 20 (3) of the Act, set out in section 13; and
- (d) subsection 45 (3) of the Act, set out in section 23.

(24) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), shall be deemed to have come into force, with respect to subsection 258 (5) of the Federal Act, on the 19th day of June, 1987, and applies after the 18th day of June, 1987.

Commence-
ment,
June 19,
1987

(25) Subsection 12 (10a) of the Act, set out in subsection 5 (8), and subsection 32 (4) of the Act, set out in section 20, shall be deemed to have come into force on the 18th day of December, 1987, and apply to corporations in respect of all taxation years commencing after the 17th day of December, 1987.

Commence-
ment,
December 18,
1987

(26) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), with respect to paragraph 84 (1) (c.3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies with respect to conversions of contributed surplus into paid-up capital after the 31st day of December, 1987.

Commence-
ment,
January 1,
1988

(27) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), with respect to paragraphs 13 (7.1) (e), 37 (1) (e), 110 (1) (k) and subparagraph 13 (21) (f) (vii) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to taxation years ending after the 31st day of December, 1987.

Idem

(28) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), with respect to subsection 14 (3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to acquisitions of property after the 31st day of December, 1987.

Idem

(29) The following shall be deemed to have come into force on the 1st day of January, 1988, and apply to taxation years ending after the 31st day of December, 1987:

Idem

- (a) subclause 1 (1) (aa) (i) of the Act, set out in subsection 1 (1);
- (b) subsection 12 (2) of the Act, set out in subsection 5 (1);

- (c) subsection 12 (7) of the Act, set out in subsection 5 (3);
- (d) clause 12 (7) (c) of the Act, set out in subsection 5 (4);
- (e) subsections 12 (14) and (15) of the Act, set out in subsection 5 (7);
- (f) subsections 12 (18) and (19) of the Act, set out in subsection 5 (8);
- (g) subsections 26a (1) and (2) of the Act, set out in section 16; and
- (h) subsections 27 (2) and (3) of the Act, set out in subsections 17 (1) and (2);

Idem (30) Section 18b of the Act, set out in subsection 11 (3), shall be deemed to have come into force on the 1st day of January, 1988, and applies to expenditures incurred after the 31st day of December, 1987.

Idem (31) Clause 73 (7) (b) of the Act, set out in subsection 41 (4), shall be deemed to have come into force on the 1st day of January, 1988, and applies to assessments and reassessments relating to transactions entered into, payments paid and reimbursements received after the 31st day of December, 1987.

Commence-
ment,
April 5,
1988 (32) The following shall be deemed to have come into force on the 5th day of April, 1988, and apply to taxation years ending after the 4th day of April, 1988:

- (a) subsection 53 (3) of the Act, set out in subsection 25 (1);
- (b) subsection 58 (3) of the Act, set out in subsection 27 (1); and
- (c) subsection 59 (3) of the Act, set out in subsection 28 (1).

Idem (33) Subclause 54 (1) (c) (iv) of the Act, set out in section 26, shall be deemed to have come into force on the 5th day of April, 1988, and applies to loans or advances issued after the 4th day of April, 1988.

Commence-
ment,
April 21,
1988 (34) Clause 13 (4) (e) of the Act, set out in section 7, shall be deemed to have come into force on the 21st day of April, 1988,

and applies to fiscal periods ending after the 20th day of April, 1988.

(35) Subsection 58 (3) of the Act, set out in subsection 27 (2), and subsection 59 (3) of the Act, set out in subsection 28 (2), shall be deemed to have come into force on the 21st day of April, 1988, and apply to taxation years ending after the 20th day of April, 1988 except that for taxation years that commence before the 21st day of April, 1988 and end after the 20th day of April, 1988, the rate increase shall be prorated according to the number of days in the taxation year subsequent to the 20th day of April, 1988. Idem

(36) The following shall be deemed to have come into force on the 21st day of April, 1988, and apply with respect to taxation years ending after the 20th day of April, 1988: Idem

- (a) clause 1 (1) (ja) of the Act, set out in subsection 1 (3);
- (b) section 12a of the Act, set out in section 6;
- (c) subsection 25 (7) of the Act, set out in section 15;
- (d) subsection 27 (12) of the Act, set out in subsection 17 (3);
- (e) section 27a of the Act, set out in section 18;
- (f) subsections 33a (1) and (2) of the Act, set out in section 21;
- (g) section 60 of the Act, set out in section 29;
- (h) subsections 61 (1) and (2) of the Act, set out in subsection 30 (1);
- (i) subsection 61 (4) of the Act, set out in subsection 30 (2);
- (j) subsections 61 (5) and (6) of the Act, set out in subsection 30 (3);
- (k) sub-subclause 61a (2) (a) (ii) (A) of the Act, set out in subsection 31 (1);
- (l) sub-subclause 61a (2) (b) (i) (B) of the Act, set out in subsection 31 (2);

- (m) subsection 63 (1) of the Act, set out in subsection 33 (1);
- (n) section 64 of the Act, set out in section 34;
- (o) section 65 of the Act, set out in section 35;
- (p) subsections 67 (1), (1a), (1b), (1c) and (1d) of the Act, set out in subsection 37 (1);
- (q) subsection 67 (3) of the Act, set out in subsection 37 (2);
- (r) subclause 70 (2) (b) (i) of the Act, set out in subsection 39 (3);
- (s) subsection 72 (5a) of the Act, set out in section 40;
- (t) clause 73 (1) (b) of the Act, set out in subsection 41 (1);
- (u) subsections 73 (7b) and (7c) of the Act, set out in subsection 41 (5); and
- (v) subsection 75 (1) of the Act, set out in section 42.

Idem

(37) Subsection 63 (2) of the Act, set out in subsection 33 (2), with respect to the increase in the tax payable, shall be deemed to have come into force on the 21st day of April, 1988, and applies with respect to taxation years ending after the 20th day of April, 1988.

Commence-
ment,
May 1,
1988

(38) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (5), with respect to paragraph 37 (1) (d) of the Federal Act, shall be deemed to have come into force on the 1st day of May, 1988, and is effective for expenditures made after the 30th day of April, 1988.

Commence-
ment,
July 1,
1988

(39) Clause 40 (2) (b) of the Act, set out in subsection 22 (1), and subsection 40 (4), set out in subsection 22 (2), shall be deemed to have come into force on the 1st day of July, 1988, and apply to taxation years ending after the 30th day of June, 1988.

Commence-
ment,
September
13, 1988

(40) Section 5a of the Act, set out in section 3, shall be deemed to have come into force on the 13th day of September, 1988, and for transactions assessed under subsection 245 (1) of the Federal Act, applies to transactions entered into after the 12th day of September, 1988 other than for,

- (a) transactions that are part of a series of transactions, determined without reference to subsection 248 (10) of the Federal Act, commencing before the 13th day of September, 1988 and completed before the 1st day of January, 1989; or
- (b) any one or more transactions, one of which was entered into before the 13th day of April, 1988, that were entered into by a taxpayer in the course of an arrangement and in respect of which the taxpayer received from the Department of National Revenue (Canada), before the 13th day of April, 1988, a confirmation or opinion in writing with respect to the tax consequences thereof,

and for transactions not assessed under subsection 245 (1) of the Federal Act, section 5a applies to transactions entered into on or after the date on which this Act receives Royal Assent.

(41) Subsections 21 (1) and (2) of the Act, set out in section 14, shall be deemed to have come into force on the 13th day of September, 1988, and apply with respect to benefits conferred after the 12th day of September, 1988. *Idem*

(42) Subsections 73 (2a), (2b) and (4a) of the Act, set out in subsection 41 (5), and subsection 73 (3) of the Act, set out in subsection 41 (2), shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988. *Idem*

(43) Subsections 77 (1) and (1a) of the Act, set out in section 43, shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988. *Idem*

(44) Subsection 85 (2) of the Act, set out in subsection 44 (1), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988. *Idem*

(45) Subsection 85 (3) of the Act, set out in subsection 44 (2), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988. *Idem*

(46) Subsection 85 (5) of the Act, set out in subsection 44 (3), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day September, 1988. *Idem*

Commence-
ment,
January 1,
1989

(47) Subsection 1 (1a) of the Act, set out in subsection 1 (6), shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years of Canadian-controlled private corporations that commence before the 1st day of January, 1988 and to taxation years of other private corporations that commence before the 1st day of July, 1988.

Idem

(48) Clause 12 (7) (d) of the Act, set out in subsection 5 (5), and section 12b of the Act, set out in section 6, shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Idem

(49) Clause 49 (1) (a) of the Act, set out in subsection 24 (1), with respect to the addition of the reference to paragraph 149 (1) (t) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years ending after the 31st day of December, 1988.

Idem

(50) Clause 49 (1) (b) of the Act, set out in subsection 24 (2), and clause 49 (1) (c) of the Act, set out in subsection 24 (3), and subsections 49 (4) and (4a) of the Act, set out in subsection 24 (4), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Idem

(51) Subsection 53 (5) of the Act, set out in subsection 25 (2), and subsection 53 (6) of the Act, set out in subsection 25 (3), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Commence-
ment,
April 25,
1990

(52) The following shall be deemed to have come into force on the 25th day of April, 1990, and apply to taxation years commencing after the 24th day of April, 1990:

- (a) subclause 1 (1) (b) (ix), set out in subsection 1 (2);
- (b) subsection 5 (12) of the Act, set out in section 2;
- (c) subsection 29 (5) of the Act, set out in section 19;
and
- (d) section 62 of the Act, set out in section 32.

Short title

49. The short title of this Act is the *Corporations Tax Amendment Act, 1990*.

Bill 217

An Act to amend the Municipal Act

Mr. Wildman



1st Reading June 12th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Subsections 10 (3), (4) and (6) of the *Municipal Act* currently provide that the inhabitants of a locality may apply to the Ontario Municipal Board to incorporate the inhabitants of the locality as a township, village or town. The purpose of the Bill is to re-enact these provisions to provide that an application for incorporation may be made to the Ontario Municipal Board by either the Minister of Municipal Affairs or the inhabitants of a locality.

Bill 217

1990

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsections 10 (3) and (4) of the *Municipal Act* are repealed and the following substituted: R.S.O. 1980,
c. 302

(3) The Municipal Board, upon the application of the Minister or of not less than seventy-five inhabitants of a locality having a population of not less than 1,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a township or union of townships. Townships

(4) The Municipal Board, upon the application of the Minister or of not less than seventy-five inhabitants of a locality having a population of not less than 500, may incorporate the inhabitants of the locality or a larger or smaller locality as a village. Villages

(2) Subsection 10 (6) of the Act is repealed and the following substituted:

(6) The Municipal Board, upon the application of the Minister or of not less than seventy-five inhabitants of a locality having a population of not less than 2,000, may incorporate the inhabitants of the locality or a larger or smaller locality as a town. Towns

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Municipal Amendment Act, 1990*. Short title

Bill 218

An Act to amend the Environmental Protection Act

The Hon. J. Bradley
Minister of the Environment



1st Reading February 16th, 1989
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

The making, use, transfer, display, transportation, storage and disposal of specified things containing an ozone depleting substance and of specified things made using an ozone depleting substance are prohibited (section 1).

The Lieutenant Governor in Council is authorized to make regulations respecting the use, transfer, display, transportation, storage, recycling and disposal of things containing or made using an ozone depleting substance. In addition, the Lieutenant Governor in Council may make regulations providing for exemptions from the requirements of the Bill and regulations thereunder (section 2).

Bill 218

1989

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART V-A

OZONE DEPLETING SUBSTANCES

47i. In this Part,

Definitions

“designated” means designated by the regulations;

“ozone depleting substance” means a chlorofluorocarbon, a halon or any other substance that has the potential to destroy ozone in the stratosphere.

47j. Sections 47k and 47-l apply only in respect of the following ozone depleting substances: Application

1. CFC-11, also known as fluorotrichloromethane.
2. CFC-12, also known as dichlorodifluoromethane.
3. CFC-113, also known as 1,1,2-trichloro-1,2,2-trifluoroethane.
4. CFC-114, also known as 1,2-dichloro-1,1,2,2-tetrafluoroethane.
5. CFC-115, also known as 1-chloro-1,1,2,2,2-pentafluoroethane.
6. Halon-1211, also known as bromochlorodifluoromethane.

7. Halon-1301, also known as bromotrifluoromethane.
8. Halon-2402, also known as dibromotetrafluoroethane.
9. Such other ozone depleting substances as may be designated.

Prohibition

47k. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any thing, other than a prescription drug, containing an ozone depleting substance that acts as a propellant; or
- (b) any designated thing or any thing of a designated class if that thing contains an ozone depleting substance.

Prohibition

47-1. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any packaging, wrapping or container that is made in a manner that uses an ozone depleting substance; or
- (b) any designated thing or any thing of a designated class if that thing is made in a manner that uses an ozone depleting substance.

2. Section 136 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23, 1986, chapter 68, section 11 and 1988, chapter 54, section 45, is further amended by adding thereto the following subsection:

Regulations relating to Part V-A

(4a) The Lieutenant Governor in Council may make regulations relating to Part V-A,

- (a) designating any matter referred to in the Part as designated;
- (b) classifying ozone depleting substances, things containing an ozone depleting substance and things made in a manner that uses an ozone depleting substance, providing for exemptions in respect of any such class from any requirement of the Part or of the regulations made under this subsection, and prescribing conditions for any such exemption;

- (c) respecting the making, use, transfer, display, transportation, storage, recycling or disposal of things containing an ozone depleting substance and of things made in a manner that uses an ozone depleting substance.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Environmental Protection Amendment Act, 1989*. Short title

Bill 218

An Act to amend the Environmental Protection Act

The Hon. J. Bradley
Minister of the Environment



1st Reading February 16th, 1989
2nd Reading May 16th, 1989
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The making, use, transfer, display, transportation, storage and disposal of specified things containing an ozone depleting substance and of specified things made using an ozone depleting substance are prohibited (section 1).

The Lieutenant Governor in Council is authorized to make regulations respecting the use, transfer, display, transportation, storage, recycling and disposal of things containing or made using an ozone depleting substance. In addition, the Lieutenant Governor in Council may make regulations providing for exemptions from the requirements of the Bill and regulations thereunder (section 2).

Bill 218

1989

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART V-A

OZONE DEPLETING SUBSTANCES

47i. In this Part,

Definitions

“designated” means designated by the regulations;

“ozone depleting substance” means a chlorofluorocarbon, a halon or any other substance that has the potential to destroy ozone in the stratosphere.

47j. Sections 47k and 47-l apply only in respect of the following ozone depleting substances: Application

1. CFC-11, also known as fluorotrichloromethane.
2. CFC-12, also known as dichlorodifluoromethane.
3. CFC-113, also known as 1,1,2-trichloro-1,2,2-trifluoroethane.
4. CFC-114, also known as 1,2-dichloro-1,1,2,2-tetrafluoroethane.
5. CFC-115, also known as 1-chloro-1,1,2,2,2-pentafluoroethane.
6. Halon-1211, also known as bromochlorodifluoromethane.

7. Halon-1301, also known as bromotrifluoromethane.
8. Halon-2402, also known as dibromotetrafluoroethane.
9. Such other ozone depleting substances as may be designated.

Prohibition

47k. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any thing, other than a prescription drug, containing an ozone depleting substance that acts as a propellant; or
- (b) any designated thing or any thing of a designated class if that thing contains an ozone depleting substance.

Prohibition

47-1. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any packaging, wrapping or container that is made in a manner that uses an ozone depleting substance; or
- (b) any designated thing or any thing of a designated class if that thing is made in a manner that uses an ozone depleting substance.

2. Section 136 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23, 1986, chapter 68, section 11 and 1988, chapter 54, section 45, is further amended by adding thereto the following subsection:

Regulations relating to Part V-A

(4a) The Lieutenant Governor in Council may make regulations relating to Part V-A,

- (a) designating any matter referred to in the Part as designated;
- (b) classifying ozone depleting substances, things containing an ozone depleting substance and things made in a manner that uses an ozone depleting substance, providing for exemptions in respect of any such class from any requirement of the Part or of the regulations made under this subsection, and prescribing conditions for any such exemption;

- (c) respecting the making, use, transfer, display, transportation, storage, recycling or disposal of things containing an ozone depleting substance and of things made in a manner that uses an ozone depleting substance;



- (d) prescribing that designated industries devote a designated percentage of their budget to undertake research and development to develop substitutes for ozone depleting substances.



3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Environmental Protection Amendment Act, 1989*. Short title

Bill 218

(Chapter 30
Statutes of Ontario, 1989)

An Act to amend the Environmental Protection Act

The Hon. J. Bradley
Minister of the Environment



<i>1st Reading</i>	February 16th, 1989
<i>2nd Reading</i>	May 16th, 1989
<i>3rd Reading</i>	June 19th, 1989
<i>Royal Assent</i>	June 20th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 218**1989****An Act to amend the Environmental Protection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART V-A

OZONE DEPLETING SUBSTANCES

47i. In this Part,

Definitions

“designated” means designated by the regulations;

“ozone depleting substance” means a chlorofluorocarbon, a halon or any other substance that has the potential to destroy ozone in the stratosphere.

47j. Sections 47k and 47-l apply only in respect of the following ozone depleting substances: Application

1. CFC-11, also known as fluorotrichloromethane.
2. CFC-12, also known as dichlorodifluoromethane.
3. CFC-113, also known as 1,1,2-trichloro-1,2,2-trifluoroethane.
4. CFC-114, also known as 1,2-dichloro-1,1,2,2-tetrafluoroethane.
5. CFC-115, also known as 1-chloro-1,1,2,2,2-pentafluoroethane.
6. Halon-1211, also known as bromochlorodifluoromethane.

7. Halon-1301, also known as bromotrifluoromethane.
8. Halon-2402, also known as dibromotetrafluoroethane.
9. Such other ozone depleting substances as may be designated.

Prohibition

47k. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any thing, other than a prescription drug, containing an ozone depleting substance that acts as a propellant; or
- (b) any designated thing or any thing of a designated class if that thing contains an ozone depleting substance.

Prohibition

47-l. No person shall, after the 1st day of July, 1989, make, use, transfer, display, transport, store or dispose of,

- (a) any packaging, wrapping or container that is made in a manner that uses an ozone depleting substance; or
- (b) any designated thing or any thing of a designated class if that thing is made in a manner that uses an ozone depleting substance.

2. Section 136 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23, 1986, chapter 68, section 11 and 1988, chapter 54, section 45, is further amended by adding thereto the following subsection:

Regulations relating to Part V-A

(4a) The Lieutenant Governor in Council may make regulations relating to Part V-A,

- (a) designating any matter referred to in the Part as designated;
- (b) classifying ozone depleting substances, things containing an ozone depleting substance and things made in a manner that uses an ozone depleting substance, providing for exemptions in respect of any such class from any requirement of the Part or of the regulations made under this subsection, and prescribing conditions for any such exemption;

- (c) respecting the making, use, transfer, display, transportation, storage, recycling or disposal of things containing an ozone depleting substance and of things made in a manner that uses an ozone depleting substance;
- (d) prescribing that designated industries devote a designated percentage of their budget to undertake research and development to develop substitutes for ozone depleting substances.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Environmental Protection Amendment Act, 1989*. Short title

2ND SESSION, 34TH LEGISLATURE, ONTARIO

38 ELIZABETH II, 1989

Bill 219

An Act to amend the Highway Traffic Act

The Hon. E. Fulton
Minister of Transportation



1st Reading February 27th, 1989
2nd Reading
3rd Reading
Royal Assent

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

EXPLANATORY NOTES

SECTION 1. A definition is added in subsection 1 (1) of the Bill and the definition of “median” is expanded in subsection 1 (2). The definition of “vehicle” is enlarged to include a bicycle.

SECTION 2. Subsection 5 (2) of the Act authorizes charging interest and imposing a penalty where a cheque tendered for payment of a fee is dishonoured. The amendment expands this to include one tendered for payment of tax.

SECTION 3. The new Part II-A provides for the issuance and use of disabled person parking permits. The new permit system replaces the existing number plate and municipal permit system.

SECTION 4. Subsection 18 (2a) of the Act provides for the payment of fees to licence agents. The amendment expands the services for which payment can be contracted.

SECTION 5. Subsection 18 (5) of the Act permits licences to be issued subject to such conditions as are authorized by the regulations and justified by the results of an examination. Subsection 18 (2) of the Act permits the Minister to issue licences subject to conditions or endorsements. The amendment brings subsection 18 (5) in line with subsection 18 (2).

SECTION 6. Subsection 21 (1) of the Act is rewritten to recognize the new Photo Card portion of a licence. Subsections 21 (1a) and (1b) are new. Section 21 of the Act prohibits, among other things, possessing more than one driver's licence issued under the Act.

SECTION 7.—Subsections 1 and 2. Subsection 26 (1) of the Act was re-enacted in 1985. As a result, it was necessary to update some internal references in subsections 26 (2) and (2a).

SECTION 8. The definition of “fire department vehicle” is being expanded.

SECTION 9.—Subsection 1. Self-explanatory.

Subsection 2. This is an internal reference to the new subsection (2a).

Subsection 3. Subsection 46 (4) of the Act permits the making of regulations. The new clause (c) permits exceptions from the new subsection (2a).

SECTION 10. Subsection 57 (5) of the Act is rewritten to reflect that bicycle is now defined to include a tricycle.

SECTION 11. Clause 84 (1) (b) of the Act permits the Lieutenant Governor in Council to make regulations prescribing inspection procedures, requirements and equipment as well as performance standards for inspections for a safety standards certificate.

SECTION 12. Self-explanatory.

SECTION 13. Certain “over width” vehicles are permitted on the highways. The reference to road service vehicles (being a type of vehicle permitted) is simplified.

SECTION 14. Fire department vehicles are exempt from speed limits in certain circumstances. The amendment incorporates the expanded definition of “fire department vehicle” as accomplished by section 7 of the Bill.

SECTION 15. Section 113 of the Act prohibits driving on the highway so slowly as to impede other traffic. The new subsection provides an exception to this.

SECTION 16. The definition section of Part IX of the Act is being amended to include a definition of “road service vehicle”. Part IX sets out the rules of the road.

SECTION 17. A lengthy description is being replaced by a defined term for brevity.

SECTION 18. Self-explanatory.

SECTION 19. Section 121 of the Act sets out rules for right and left hand turns. An exception is being provided for road service vehicles.

SECTION 20. The new subsection provides an alternative method of signalling a right turn.

SECTION 21. Subsection 124 (9) of the Act provides that every driver shall obey traffic control signals. The new subsection (9a) provides an exception for drivers of road service vehicles.

SECTION 22. Self-explanatory.

SECTION 23. The section regulating slow moving vehicles is rewritten to provide an exception for road service vehicles..

SECTION 24. Subsections 127 (1), (2), (3), (4) and (5) of the Act are rewritten to bring in the reference to road service vehicles and to delete the reference to tricycles. Subsections (1) and (3) are split up to make them easier to read.

SECTION 25. The section is rewritten to simplify it and to bring in an exception for road service vehicles.

SECTION 26. Subsection 129 (3) of the Act provides exceptions to the prohibition against passing by driving off the roadway. A further class of vehicle is being exempted.

SECTION 27. Section 133 of the Act sets out further rules of the road. Clause 133 (c) is rewritten to simplify it and an exception for road service vehicles is created.

SECTIONS 28 and 29. Further exceptions to rules of the road are provided in respect of road service vehicles.

SECTION 30. Section 144 of the Act is rewritten to reflect that bicycle is now defined to include a tricycle.

SECTION 31. Road service vehicles are exempted from certain regulatory provisions in respect of parking or stopping on a roadway.

SECTION 32. The new section controls the offering of tow truck services at accident scenes.

SECTION 33. Section 151 of the Act is rewritten to provide adults who have developmental handicaps using school buses with the protection given to children making use of school buses.

SECTION 34. Section 155 of the Act provides that pedestrians walking on a highway must walk facing oncoming traffic.

SECTION 35. Section 158 of the Act provides for the making of regulations in respect of highway signs.

SECTION 36. Section 169 of the Act provides that municipal by-laws regulating traffic that are inconsistent with the Act are deemed repealed. The amendments have the effect of repealing by-laws that are inconsistent with the regulations and specifying when the repeal comes into effect.

SECTION 37. Subsections 181 (3) and (4) of the Act deem that a vehicle permit holder is the owner of the vehicle for purposes of the Act and that the plates on a vehicle are

those of the owner of the vehicle. This is extended to apply in respect of municipal traffic by-laws.

SECTION 38. Section 184 of the Act is amended to require notification to the Registrar of Motor Vehicles of convictions for improper use of a permit under a municipal by-law regulating parking for disabled persons.

SECTIONS 39 and 40. Sections 185 and 186 of the Act provide that a suspended licence must be forwarded to the Registrar. The amendments allow the holder to retain the Photo Card portion.

SECTION 41. The new section requires cyclists to stop and identify themselves to a police officer who reasonably believes they are doing anything in contravention of the Act.

SECTION 42. The new section 192a allows the police officer to take custody of apparently abandoned vehicles.

SECTION 43. The *Municipal Act* is amended to reflect the new provisions of the *Highway Traffic Act* governing disabled person parking permits.

Bill 219**1989****An Act to amend the Highway Traffic Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 48, section 1 and 1983, chapter 63, section 1, is further amended by renumbering paragraph 1 as paragraph 1a and by adding thereto the following paragraph:

1. “bicycle” includes a tricycle and unicycle but does not include a motor assisted bicycle.

(2) Paragraph 17 of the said subsection 1 (1) is repealed and the following substituted therefor:

17. “median strip” means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement.

(3) Paragraph 39 of the said subsection 1 (1), as amended by the Statutes of Ontario, 1983, chapter 63, section 1, is further amended by inserting after “machine” in the second line “bicycle”.

2. Subsection 5 (2) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 1, is amended by inserting after “fee” in the first line “or tax”.

3. The said Act is amended by renumbering section 17a as 17f and by adding thereto the following Part:

PART II-A

PARKING PERMITS

Issuance of
disabled
person
parking
permits

17a.—(1) The Minister shall issue a disabled person parking permit to every person or organization that applies therefor and meets the requirements of the regulations.

Term

(2) A disabled person parking permit is in force during the period of time shown on the permit.

Cancellation
of permit

(3) The Minister may cancel a disabled person parking permit or may refuse to issue a replacement permit if the permit has been used in contravention of this Part or the regulations or of a municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act*.

R.S.O. 1980,
c. 302

Refusal to
issue new
permit

(4) If the Minister cancels a disabled person parking permit, the Minister may refuse to issue a new permit to the holder of the cancelled permit.

Offence

17b. No person shall,

- (a) have in his or her possession a disabled person parking permit that is fictitious, altered or fraudulently obtained;
- (b) display a disabled person parking permit otherwise than in accordance with the regulations;
- (c) fail or refuse to surrender a disabled person parking permit in accordance with this Part or the regulations; or
- (d) use a disabled person parking permit on land owned and occupied by the Crown otherwise than in accordance with the regulations.

Reasonable
inspection

17c.—(1) Every person having possession of a disabled person parking permit shall, upon the demand of a police officer, police cadet, municipal law enforcement officer or an officer appointed for carrying out the provisions of this Act, surrender the permit for reasonable inspection to ensure that the provisions of this Part and the regulations and any municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act* are being complied with.

R.S.O. 1980,
c. 302

Officer may
take
possession of
the permit

(2) An officer or cadet to whom a disabled person parking permit has been surrendered may retain it until disposition of

the case if the officer or cadet has reasonable ground to believe that the permit,

- (a) was not issued under this Part;
- (b) was obtained under false pretences;
- (c) has been defaced or altered;
- (d) has expired or been cancelled; or
- (e) is being or has been used in contravention of the regulations or of a by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act*.

R.S.O. 1980,
c. 302

17d. The following items, if valid immediately before this Part comes into force, shall be deemed to be a disabled person parking permit until the earlier of their expiry date, if not for this Part, and the day that is six months after this Part comes into force:

Number
plates and
permits
issued before
this Part
comes into
force

1. A number plate bearing the symbol for the disabled issued under this Act and displayed in accordance with the regulations as they exist immediately before this Part comes into force.
2. A permit issued by a municipality under paragraph 119 of section 210 of the *Municipal Act* as it exists immediately before this Part comes into force.

17e. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing any form for the purposes of this Part and requiring its use;
- (b) respecting the issuance, renewal, cancellation, replacement and disposal of disabled person parking permits;
- (c) prescribing the requirements for obtaining a disabled person parking permit;
- (d) prescribing the period of time or the method of determining the period of time during which disabled person parking permits shall be in force;
- (e) governing the manner of displaying disabled person parking permits on or in vehicles;

- (f) requiring the erection of signs and the placing of markings to identify designated parking spaces for the use of vehicles displaying a disabled person parking permit, and prescribing the types, content and location of such signs and markings;
- (g) prescribing the conditions of use of a disabled person parking permit on land owned and occupied by the Crown;
- (h) requiring and governing the surrender of disabled person parking permits;
- (i) providing for and governing the recognition of permits, number plates and other markers and devices issued by other jurisdictions as being equivalent to disabled person parking permits issued under this Part.

4. Subsection 18 (2a) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 2, is amended by inserting after “licences” in the second line “or provides any other service in relation to licences”.

5.—(1) Subclause 18 (5) (a) (i) of the said Act is amended by inserting after “conditions” in the second line “or endorsements”.

(2) Subclause 18 (5) (b) (i) of the said Act is amended by inserting after “conditions” in the first line “or endorsements”.

6. Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Displaying
licence that
has been
suspended,
altered, etc.

- (1) No person shall,
 - (a) display or cause or permit to be displayed or have in his or her possession a fictitious, altered or fraudulently obtained driver’s licence;
 - (b) display or cause or permit to be displayed or have in his or her possession a cancelled, revoked or suspended driver’s licence other than a Photo Card portion thereof;
 - (c) lend his or her driver’s licence or any portion thereof or permit the use of it by another person;

- (d) display or represent as his or her own a driver's licence not issued to him or her;
- (e) apply for, secure or retain in his or her possession more than one driver's licence; or
- (f) fail to surrender to the Ministry upon its demand a driver's licence that has been suspended, revoked or cancelled.

(1a) In subsection (1), "licence" includes any portion thereof. Idem

(1b) Any police officer who has reason to believe that any person has in his or her possession a driver's licence or portion thereof referred to in subsection (1) may take possession of the licence or portion thereof and, where the officer does so, shall forward it to the Registrar upon disposition of the case. Seizing licence

7.—(1) Subsection 26 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 61, section 1, is amended by striking out "clauses (1) (b) and (c)" in the third line and inserting in lieu thereof "clauses (1) (f) and (g)".

(2) Subsection 26 (2a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 61, section 1, is amended by striking out "Clauses (1) (b) and (c)" in the first line and inserting in lieu thereof "Clauses (1) (f) and (g)".

8. Clause 43 (b) of the said Act is amended by adding at the end thereof "and a vehicle designated in writing by the Fire Marshal of Ontario as a "fire department vehicle" "".

9.—(1) Section 46 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 9, is further amended by adding thereto the following subsections:

(2a) No person shall ride a bicycle on a highway unless it is equipped with at least one brake system acting on the rear wheel that will enable the rider to make the braked wheel skid on dry, level and clean pavement. Brakes on bicycle

(2b) In subsection (2a), "bicycle" has its ordinary meaning and does not include a unicycle or tricycle. Meaning of bicycle

(2) Clause 46 (4) (a) of the said Act is amended by inserting after "(2)" in the third line "(2a)".

(3) Subsection 46 (4) of the said Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding thereto the following clause:

- (c) exempting any person or class of persons or any class of bicycles from subsection (2a) and prescribing conditions for any such exemption.

10. Subsection 57 (5) of the said Act is amended by striking out “bicycle and tricycle” in the first and second lines and inserting in lieu thereof “and bicycle”.

11. Section 84 of the said Act is amended by adding thereto the following subsection:

Adoption by
reference

- (2) Any regulation made under clause (1) (b) may adopt by reference any code, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary and may require compliance with any code that is adopted.

12. Section 90 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 3, is further amended by adding thereto the following subsection:

Idem

- (6a) No person shall drive a motor vehicle on a highway in which there is a child passenger weighing less than twenty-three kilograms who does not occupy, if available, a seating position for which a seat belt assembly is provided.

13. Clause 92 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) road service vehicles as defined in Part IX and includes such vehicles while they are travelling to and from a maintenance site or repair centre.

14. Clause 109 (12) (a) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 8, is further amended by striking out “a motor vehicle of a municipal fire department” in the first line and inserting in lieu thereof “a fire department vehicle as defined in section 43”.

15. Section 113 of the said Act is amended by adding thereto the following subsection:

Exception

- (2) Subsection (1) does not apply to a road service vehicle as defined in Part IX.

16. Section 113a of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 9, is amended by adding thereto the following clause:

- (aa) “road service vehicle” means a vehicle operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway while the vehicle is being used for highway maintenance purposes.

17. Subsection 114 (4) of the said Act is amended by striking out “vehicle or road-building machine while it is being used for maintenance of the highway” in the first, second and third lines and inserting in lieu thereof “road service vehicle”.

18. Section 120 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 14, is further amended by adding thereto the following subsection:

- (6) No person shall ride a bicycle across a roadway within a pedestrian crosswalk. Riding in
pedestrian
crosswalks
prohibited

19. Section 121 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 15, is further amended by adding thereto the following subsections:

- (3a) A driver of a road service vehicle entering an intersection within a lane other than one described in subsection (2) or (3) may make a right turn from the approach lane if the turn can be safely made. Exception

- (6a) A driver of a road service vehicle entering an intersection within a left-turn lane may leave the intersection without turning to the left if the movement can be safely made. Exception

20. Section 122 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 27 and 1984, chapter 61, section 5, is further amended by adding thereto the following subsection:

- (4a) Notwithstanding clause (4) (b), a person on a bicycle may indicate the intention to turn to the right by extending the right hand and arm horizontally and beyond the right side of the bicycle. Idem

21. Section 124 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 16, is amended by adding thereto the following subsection:

Exception

(9a) Notwithstanding subsection (9), a driver of a road service vehicle in a left-turn lane may proceed through the intersection without turning to the left if the movement can be safely made, there is showing a circular green or green arrow indication for the through traffic movement, and the driver,

- (a) where the applicable left-turn traffic control signal is showing a circular red indication, first brings the vehicle to a stop; and
- (b) where the operation of any other vehicle may be affected, indicates his or her intention to proceed through the intersection without turning to the left by giving a plainly visible signal to the driver or operator of the other vehicle.

22. Section 124 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 16, is amended by adding thereto the following subsection:

Riding in
crosswalks
prohibited

(26a) No person shall ride a bicycle across a roadway within or along a crosswalk at an intersection or at a location other than an intersection which location is controlled by a traffic control signal system.

23. Section 126 of the said Act is repealed and the following substituted therefor:

Slow vehicles
to travel on
right side

126.—(1) Any vehicle travelling upon a roadway at less than the normal speed of traffic at that time and place shall, where practicable, be driven in the right-hand lane then available for traffic or as close as practicable to the right hand curb or edge of the roadway.

Exception

- (2) Subsection (1) does not apply to a driver of a,
- (a) vehicle while overtaking and passing another vehicle proceeding in the same direction;
 - (b) vehicle while preparing for a left turn at an intersection or into a private road or driveway; or
 - (c) road service vehicle.

24. Subsections 127 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

Passing
meeting
vehicles

(1) Every person in charge of a vehicle on a highway meeting another vehicle shall turn out to the right from the centre

of the roadway, allowing the other vehicle one-half of the roadway free.

(2) Every person in charge of a vehicle or on horseback on a highway who is overtaken by a vehicle or equestrian travelling at a greater speed shall turn out to the right and allow the overtaking vehicle or equestrian to pass.

Vehicles or equestrians overtaken

(2a) Subsections (1) and (2) do not apply to a person in charge of a road service vehicle or a road-building machine or apparatus while the machine or apparatus is engaged in the construction of a highway.

Exception

(3) Every person in charge of a vehicle on a highway meeting a person travelling on a bicycle shall allow the cyclist sufficient room on the roadway to pass.

Vehicles meeting bicycles

(4) Every person in charge of a vehicle or on horseback on a highway who is overtaking another vehicle or equestrian shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or equestrian overtaken, and the person overtaken is not required to leave more than one-half of the roadway free.

Vehicles or equestrians overtaking others

(5) Every person on a bicycle or motor assisted bicycle who is overtaken by a vehicle or equestrian travelling at a greater speed shall turn out to the right and allow the vehicle or equestrian to pass and the vehicle or equestrian overtaking shall turn out to the left so far as may be necessary to avoid a collision.

Bicycles overtaken

25. Section 128 of the said Act is repealed and the following substituted therefor:

128.—(1) No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,

Driving to left of centre prohibited under certain conditions

(a) when approaching the crest of a grade or upon a curve in the roadway or within 30 metres of a bridge, viaduct or tunnel where the driver's view is obstructed within that distance so as to create a potential hazard in the event another vehicle might approach from the opposite direction; or

(b) when approaching within 30 metres of a level railway crossing.

(2) Subsection (1) does not apply,

Exception

- (a) on a highway divided into clearly marked lanes where there are more such lanes for traffic in one direction than in the other direction;
- (b) to a road service vehicle where precautions are taken to eliminate the hazard; or
- (c) on a highway while it is designated for the use of one-way traffic.

26. Subsection 129 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 48, section 17, is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause:

- (e) a road service vehicle.

27.—(1) Clause 133 (c) of the said Act is repealed and the following substituted therefor:

- (c) any lane may be designated for slowly moving traffic, traffic moving in a particular direction or classes or types of vehicles and, notwithstanding section 121, where a highway is so designated and official signs indicating the designation are erected, every driver shall obey the instructions on the official signs.

(2) Section 133 of the said Act is amended by adding thereto the following subsection:

Exception

- (2) Where safety is not jeopardized, clauses (1) (b) and (c) do not apply to road service vehicles and clause (1) (c) does not apply to road-building machines or apparatus while engaged in the construction of a highway.

28. Section 135 of the said Act is amended by adding thereto the following subsection:

Idem

- (2) Notwithstanding clause (1) (a), a road service vehicle may be operated or driven along the shoulder of the highway if the vehicle remains on its side of the separation.

29. Subsection 135a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 18, is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the driver of a road service vehicle, if the movement is made in safety.

30.—(1) Subsection 144 (1) of the said Act is amended by striking out “or tricycle” in the second line.

(2) Subsection 144 (2) of the said Act is amended by striking out “or tricycle” in the first and second lines.

31. Section 147 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 33 and 1985, chapter 13, section 13, is further amended by adding thereto the following subsection:

(2b) Subsection (1) does not apply to a road service vehicle Exception
that is parked, standing or stopped safely.

32. The said Act is further amended by adding thereto the following section:

147a.—(1) No person shall make or convey an offer of Tow truck
services of a tow truck while that person is within 200 metres services
of,

- (a) the scene of an accident or apparent accident; or
- (b) a vehicle involved in an accident,

on the King's Highway.

(2) No person shall park or stop a tow truck on the King's Idem
Highway within 200 metres of,

- (a) the scene of an accident or apparent accident; or
- (b) a vehicle involved in an accident,

if there is a sufficient number of tow trucks already at the scene to deal with all vehicles that apparently require the services of a tow truck.

(3) Subsections (1) and (2) do not apply to a person who is Idem
at the scene of the accident at the request of a police officer, an officer appointed for carrying out the provisions of this Act, a person engaged in highway maintenance or a person involved in the accident.

(4) Every person who contravenes any provision in this section is guilty of an offence and on conviction is liable, Offence

- (a) for a first offence, to a fine of not less than \$200 and not more than \$1,000; and
- (b) for each subsequent offence, to a fine of not less than \$400 and not more than \$2,000, or to imprisonment for a term of not more than six months, or to both.

Idem

(5) An offence under this section committed five years or longer after a previous conviction for an offence under this section is not a subsequent offence for the purposes of clause (4) (b).

33. Section 151 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19 and amended by the Statutes of Ontario, 1984, chapter 61, section 6, is repealed and the following substituted therefor:

Definitions

151.—(1) In this section,

“children” means,

- (a) persons under the age of eighteen, and
- (b) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;

“developmental handicap” means a condition of mental impairment, present or occurring during a person’s formative years, that is associated with limitations in adaptive behaviour;

“school” does not include a post-secondary school educational institution;

“school bus” means a bus that,

- (a) is painted chrome yellow, and
- (b) displays on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem

(2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit for which a bus registration or validation fee was paid in any jurisdiction.

(3) No bus, except a bus that at any time during its current validation period is used to transport children or to transport adults who have developmental handicaps, shall be painted chrome yellow. Prohibition

(4) No motor vehicle on a highway, other than a school bus, shall have displayed thereon the words "school bus" or the words "do not pass when signals flashing" or be equipped with a school bus stop arm. Idem

(5) No person shall drive or operate a motor vehicle on a highway that contravenes subsection (3) or (4). Idem

(6) Subject to subsection (9), every school bus driver, Duty of driver to use signals

(a) who is about to stop on a highway for the purpose of receiving or discharging children or receiving or discharging adults who have developmental handicaps, shall actuate the overhead red signal-lights on the bus;

(b) as soon as the bus is stopped for a purpose set out in clause (a), shall actuate the school bus stop arm; and

(c) while the bus is stopped for a purpose set out in clause (a) on a highway that does not have a median strip, shall continue to operate the overhead red signal-lights and stop arm until all passengers having to cross the highway have completed the crossing.

(7) Clause 147 (1) (a) does not apply to a driver who stops in accordance with subsection (6). Exception to cl. 147 (1) (a)

(8) No person shall actuate the overhead red signal-lights or the stop arm on a school bus on a highway under any circumstances other than those set out in subsection (6). Restriction on use of signals

(9) No person shall actuate the overhead red signal-lights or the stop arm on a school bus, Idem

(a) at an intersection controlled by an operating traffic control signal system;

(b) at any other location controlled by an operating traffic control signal system at,

(i) a sign or roadway marking indicating where the stop is to be made,

(ii) the area immediately before entering the nearest crosswalk, if there is no sign or marking indicating where the stop is to be made, or

(iii) a point not less than five metres before the nearest traffic control signal, if there is no sign, marking or crosswalk; or

(c) within sixty metres from a location referred to in clause (a) or (b).

Bus loading
zone

(10) No person shall stop a school bus on a highway for the purpose of receiving or discharging children or receiving or discharging adults who have developmental handicaps,

(a) opposite a designated school bus loading zone; or

(b) at a designated school bus loading zone, except as close as practicable to the right curb or edge of the roadway.

Duty of
drivers when
school bus
stopped

(11) Every driver or street car operator, when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its overhead red signal-lights flashing, shall stop before reaching the bus and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Idem

(12) Every driver or street car operator on a highway, when approaching from the rear a stopped school bus that has its overhead red signal-lights flashing, shall stop at least twenty metres before reaching the bus and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Designating
bus loading
zones

(13) A council of a municipality may by by-law designate school bus loading zones, in accordance with the regulations, on highways under its jurisdiction and, where it does so, subsection (6) does not apply to a driver about to stop or stopping in a zone so designated.

When
effective

(14) No by-law passed under subsection (13) becomes effective until the highways or portions thereof affected have signs erected in compliance with this Act and the regulations.

Regulations

(15) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting adults who have developmental handicaps;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or for transporting adults who have developmental handicaps;
- (h) requiring the retention of prescribed books and records within vehicles and prescribing the information to be contained and the entries to be recorded in the books or records.

(16) Any regulation made under subsection (15) may be general or particular in its application. Scope of regulations

(17) Every person who contravenes subsection (11) or (12) is guilty of an offence and on conviction is liable, Penalty

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500; and
- (b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(18) An offence referred to in subsection (17) committed more than five years after a previous conviction for either of Time limit for subsequent offence

the offences referred to in subsection (17) is not a subsequent offence for the purpose of clause (17) (b).

34. Section 155 of the said Act is amended by adding thereto the following subsection:

Idem

(2) Subsection (1) does not apply to a pedestrian walking a bicycle in circumstances where crossing to the left side of the highway would be unsafe.

35. Subsection 158 (1) of the said Act is amended by adding at the end thereof “and prohibiting the use or erection of any sign or type of sign that is not prescribed”.

36. Subsection 169 (1) of the said Act is amended by inserting after “Act” in the ninth line “or the regulations” and by adding at the end thereof “upon the inconsistency arising”.

37.—(1) Subsection 181 (3) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 15, section 12, is amended by inserting after “Act” in the first line “or any municipal by-law regulating or prohibiting parking, standing or stopping”.

(2) Subsection 181 (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 63, section 43, is amended by inserting after “Act” in the first line “or any municipal by-law regulating or prohibiting parking, standing or stopping”.

38. Section 184 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 61, section 7 and 1985, chapter 13, section 14, is further amended by adding thereto the following subsection:

Report on
disabled
person
parking
by-law
conviction
R.S.O. 1980,
c. 302

(1c) Notwithstanding subsection (1), a judge, provincial judge or justice of the peace who makes a conviction under a municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act* for the improper use of a disabled person parking permit issued under section 17a or the clerk of the court in which the conviction is made shall forthwith certify the conviction to the Registrar setting out the name and address of the person convicted, the number of the disabled person parking permit used in the offence, the name and address of the person or organization in whose name the disabled person parking permit is issued, the date the offence was committed and the provision of the by-law contravened.

39. Section 185 of the said Act is amended by adding thereto the following subsection:

(4) Where a licence consists of a Photo Card and a Licence Card, subsections (2) and (3) do not apply to the Photo Card portion thereof. Exception

40. Section 186 of the said Act is amended by adding thereto the following subsection:

(3) Where a licence consists of a Photo Card and a Licence Card, subsections (1) and (2) do not apply to the Photo Card portion thereof. Exception

41. The said Act is further amended by adding thereto the following section:

190a.—(1) A police officer who finds any person contravening any provision under this Act while in charge of a bicycle may require that person to stop and to provide identification of himself or herself. Cyclist to identify self

(2) Every person who is required to stop, by a police officer acting under subsection (1), shall stop and identify himself or herself to the police officer. Idem

(3) For the purposes of this section, giving one's correct name and address is sufficient identification. Idem

(4) A police officer may arrest without warrant any person who does not comply with subsection (2). Idem

42. The said Act is further amended by adding thereto the following section:

192a.—(1) A police officer or an officer appointed for carrying out the provisions of this Act who discovers a vehicle apparently abandoned on or near a highway or a motor vehicle or trailer without proper number plates may take the vehicle into the custody of the law and may cause it to be taken to and stored in a suitable place. Abandoned or unplated vehicles

(2) All costs and charges for removal, care or storage of a vehicle taken or stored under subsection (1) are a lien upon the vehicle that may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*. Costs for storage

R.S.O. 1980,
c. 261

COMPLEMENTARY AMENDMENTS

43.—(1) Paragraph 119 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 41, section 1, is repealed and the following substituted therefor:

Parking for
disabled
persons
R.S.O. 1980,
c. 198

119. For exempting the owners and drivers of vehicles displaying a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act* and the regulations made thereunder from any provision of a by-law passed by the council under this Act or under any other general or special Act for prohibiting or regulating the parking, standing or stopping of vehicles on any highway or part thereof under the jurisdiction of the council.

(a) A by-law passed under this paragraph,

- (i) may regulate or prohibit the parking, standing or stopping of vehicles displaying a disabled person parking permit, and the provisions authorized by this subclause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of vehicles on a highway or part thereof under the jurisdiction of the council,
- (ii) shall prescribe the conditions of use of a disabled person parking permit, and shall prohibit the improper use thereof, and
- (iii) may provide for the removal or impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

(2) Paragraph 150 of the said section 210 is repealed and the following substituted therefor:

Parking
facilities for
disabled
persons

R.S.O. 1980,
c. 198

150. For requiring the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for the sole use of vehicles displaying a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act* and the regulations made thereunder and for prohibiting the use of such spaces by other vehicles.

(a) A by-law passed under this paragraph,

- (i) may specify the dimensions of parking spaces to be provided for the sole use of vehicles displaying a disabled person parking permit, and the number of such spaces to be provided by each owner or operator of a parking lot or other parking facility, which number may be based upon a proportion of the total number

of parking spaces in the parking lot or parking facility to which the public has access,

- (ii) shall prescribe the conditions of use of a disabled person parking permit, and shall prohibit the improper use thereof, and
- (iii) may provide for the removal or impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

44.—(1) This Act, except sections 3, 9, 18, 22, 32, 33, 37, 38, 41 and 43, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 3, 9, 18, 22, 32, 33, 37, 38, 41 and 43 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

45. The short title of this Act is the *Highway Traffic Amendment Act, 1989*. Short title

Bill 219

(Chapter 54
Statutes of Ontario, 1989)

An Act to amend the Highway Traffic Act

The Hon. W. Wrye
Minister of Transportation



<i>1st Reading</i>	February 27th, 1989
<i>2nd Reading</i>	October 10th, 1989
<i>3rd Reading</i>	October 16th, 1989
<i>Royal Assent</i>	October 16th, 1989

*Continued from the 1st Session by an Order of the
Legislative Assembly of March 2nd, 1989.*

Bill 219**1989****An Act to amend the Highway Traffic Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 48, section 1 and 1983, chapter 63, section 1, is further amended by renumbering paragraph 1 as paragraph 1a and by adding thereto the following paragraph:

1. “bicycle” includes a tricycle and unicycle but does not include a motor assisted bicycle.

(2) Paragraph 17 of the said subsection 1 (1) is repealed and the following substituted therefor:

17. “median strip” means the portion of a highway so constructed as to separate traffic travelling in one direction from traffic travelling in the opposite direction by a physical barrier or a raised or depressed paved or unpaved separation area that is not intended to allow crossing vehicular movement.

(3) Paragraph 39 of the said subsection 1 (1), as amended by the Statutes of Ontario, 1983, chapter 63, section 1, is further amended by inserting after “machine” in the second line “bicycle”.

2. Subsection 5 (2) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 1, is amended by inserting after “fee” in the first line “or tax”.

3. The said Act is amended by renumbering section 17a as 17f and by adding thereto the following Part:

PART II-A

PARKING PERMITS

Issuance of
disabled
person
parking
permits

17a.—(1) The Minister shall issue a disabled person parking permit to every person or organization that applies therefor and meets the requirements of the regulations.

Term

(2) A disabled person parking permit is in force during the period of time shown on the permit.

Cancellation
of permit

(3) The Minister may cancel a disabled person parking permit or may refuse to issue a replacement permit if the permit has been used in contravention of this Part or the regulations or of a municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act*.

R.S.O. 1980,
c. 302

Refusal to
issue new
permit

(4) If the Minister cancels a disabled person parking permit, the Minister may refuse to issue a new permit to the holder of the cancelled permit.

Offence

17b. No person shall,

- (a) have in his or her possession a disabled person parking permit that is fictitious, altered or fraudulently obtained;
- (b) display a disabled person parking permit otherwise than in accordance with the regulations;
- (c) fail or refuse to surrender a disabled person parking permit in accordance with this Part or the regulations; or
- (d) use a disabled person parking permit on land owned and occupied by the Crown otherwise than in accordance with the regulations.

Reasonable
inspection

17c.—(1) Every person having possession of a disabled person parking permit shall, upon the demand of a police officer, police cadet, municipal law enforcement officer or an officer appointed for carrying out the provisions of this Act, surrender the permit for reasonable inspection to ensure that the provisions of this Part and the regulations and any municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act* are being complied with.

R.S.O. 1980,
c. 302

Officer may
take
possession of
the permit

(2) An officer or cadet to whom a disabled person parking permit has been surrendered may retain it until disposition of

the case if the officer or cadet has reasonable ground to believe that the permit,

- (a) was not issued under this Part;
- (b) was obtained under false pretences;
- (c) has been defaced or altered;
- (d) has expired or been cancelled; or
- (e) is being or has been used in contravention of the regulations or of a by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act*.

R.S.O. 1980,
c. 302

17d. The following items, if valid immediately before this Part comes into force, shall be deemed to be a disabled person parking permit until the earlier of their expiry date, if not for this Part, and the day that is six months after this Part comes into force:

Number
plates and
permits
issued before
this Part
comes into
force

1. A number plate bearing the symbol for the disabled issued under this Act and displayed in accordance with the regulations as they exist immediately before this Part comes into force.
2. A permit issued by a municipality under paragraph 119 of section 210 of the *Municipal Act* as it exists immediately before this Part comes into force.

17e. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing any form for the purposes of this Part and requiring its use;
- (b) respecting the issuance, renewal, cancellation, replacement and disposal of disabled person parking permits;
- (c) prescribing the requirements for obtaining a disabled person parking permit;
- (d) prescribing the period of time or the method of determining the period of time during which disabled person parking permits shall be in force;
- (e) governing the manner of displaying disabled person parking permits on or in vehicles;

- (f) requiring the erection of signs and the placing of markings to identify designated parking spaces for the use of vehicles displaying a disabled person parking permit, and prescribing the types, content and location of such signs and markings;
- (g) prescribing the conditions of use of a disabled person parking permit on land owned and occupied by the Crown;
- (h) requiring and governing the surrender of disabled person parking permits;
- (i) providing for and governing the recognition of permits, number plates and other markers and devices issued by other jurisdictions as being equivalent to disabled person parking permits issued under this Part.

4. Subsection 18 (2a) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 13, section 2, is amended by inserting after “licences” in the second line “or provides any other service in relation to licences”.

5.—(1) Subclause 18 (5) (a) (i) of the said Act is amended by inserting after “conditions” in the second line “or endorsements”.

(2) Subclause 18 (5) (b) (i) of the said Act is amended by inserting after “conditions” in the first line “or endorsements”.

6. Subsection 21 (1) of the said Act is repealed and the following substituted therefor:

Displaying
licence that
has been
suspended,
altered, etc.

- (1) No person shall,
 - (a) display or cause or permit to be displayed or have in his or her possession a fictitious, altered or fraudulently obtained driver’s licence;
 - (b) display or cause or permit to be displayed or have in his or her possession a cancelled, revoked or suspended driver’s licence other than a Photo Card portion thereof;
 - (c) lend his or her driver’s licence or any portion thereof or permit the use of it by another person;

- (d) display or represent as his or her own a driver's licence not issued to him or her;
- (e) apply for, secure or retain in his or her possession more than one driver's licence; or
- (f) fail to surrender to the Ministry upon its demand a driver's licence that has been suspended, revoked or cancelled.

(1a) In subsection (1), "licence" includes any portion thereof. Idem

(1b) Any police officer who has reason to believe that any person has in his or her possession a driver's licence or portion thereof referred to in subsection (1) may take possession of the licence or portion thereof and, where the officer does so, shall forward it to the Registrar upon disposition of the case. Seizing licence

7.—(1) Subsection 26 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 61, section 1, is amended by striking out "clauses (1) (b) and (c)" in the third line and inserting in lieu thereof "clauses (1) (f) and (g)".

(2) Subsection 26 (2a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 61, section 1, is amended by striking out "Clauses (1) (b) and (c)" in the first line and inserting in lieu thereof "Clauses (1) (f) and (g)".

8. Clause 43 (b) of the said Act is amended by adding at the end thereof "and a vehicle designated in writing by the Fire Marshal of Ontario as a "fire department vehicle" "".

9.—(1) Section 46 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 13, section 9, is further amended by adding thereto the following subsections:

(2a) No person shall ride a bicycle on a highway unless it is equipped with at least one brake system acting on the rear wheel that will enable the rider to make the braked wheel skid on dry, level and clean pavement. Brakes on bicycle

(2b) In subsection (2a), "bicycle" has its ordinary meaning and does not include a unicycle or tricycle. Meaning of bicycle

(2) Clause 46 (4) (a) of the said Act is amended by inserting after "(2)" in the third line "(2a)".

(3) Subsection 46 (4) of the said Act is amended by striking out “and” at the end of clause (a), by adding “and” at the end of clause (b) and by adding thereto the following clause:

- (c) exempting any person or class of persons or any class of bicycles from subsection (2a) and prescribing conditions for any such exemption.**

10. Subsection 57 (5) of the said Act is amended by striking out “bicycle and tricycle” in the first and second lines and inserting in lieu thereof “and bicycle”.

11. Section 84 of the said Act is amended by adding thereto the following subsection:

Adoption by
reference

- (2) Any regulation made under clause (1) (b) may adopt by reference any code, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary and may require compliance with any code that is adopted.**

12. Section 90 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 3, is further amended by adding thereto the following subsection:

Idem

- (6a) No person shall drive a motor vehicle on a highway in which there is a child passenger weighing less than twenty-three kilograms who does not occupy, if available, a seating position for which a seat belt assembly is provided.**

13. Clause 92 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) road service vehicles as defined in Part IX and includes such vehicles while they are travelling to and from a maintenance site or repair centre.**

14. Clause 109 (12) (a) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 8, is further amended by striking out “a motor vehicle of a municipal fire department” in the first line and inserting in lieu thereof “a fire department vehicle as defined in section 43”.

15. Section 113 of the said Act is amended by adding thereto the following subsection:

Exception

- (2) Subsection (1) does not apply to a road service vehicle as defined in Part IX.**

16. Section 113a of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 21, section 9, is amended by adding thereto the following clause:

(aa) “road service vehicle” means a vehicle operated by or on behalf of a municipality or other authority having jurisdiction and control of a highway while the vehicle is being used for highway maintenance purposes.

17. Subsection 114 (4) of the said Act is amended by striking out “vehicle or road-building machine while it is being used for maintenance of the highway” in the first, second and third lines and inserting in lieu thereof “road service vehicle”.

18. Section 120 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 14, is further amended by adding thereto the following subsection:

(6) No person shall ride a bicycle across a roadway within a pedestrian crosswalk.

Riding in pedestrian crosswalks prohibited

19. Section 121 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 21, section 15, is further amended by adding thereto the following subsections:

(3a) A driver of a road service vehicle entering an intersection within a lane other than one described in subsection (2) or (3) may make a right turn from the approach lane if the turn can be safely made.

Exception

.

(6a) A driver of a road service vehicle entering an intersection within a left-turn lane may leave the intersection without turning to the left if the movement can be safely made.

Exception

20. Section 122 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 27 and 1984, chapter 61, section 5, is further amended by adding thereto the following subsection:

(4a) Notwithstanding clause (4) (b), a person on a bicycle may indicate the intention to turn to the right by extending the right hand and arm horizontally and beyond the right side of the bicycle.

Idem

21. Section 124 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 16, is amended by adding thereto the following subsection:

Exception

(9a) Notwithstanding subsection (9), a driver of a road service vehicle in a left-turn lane may proceed through the intersection without turning to the left if the movement can be safely made, there is showing a circular green or green arrow indication for the through traffic movement, and the driver,

- (a) where the applicable left-turn traffic control signal is showing a circular red indication, first brings the vehicle to a stop; and
- (b) where the operation of any other vehicle may be affected, indicates his or her intention to proceed through the intersection without turning to the left by giving a plainly visible signal to the driver or operator of the other vehicle.

22. Section 124 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 16, is amended by adding thereto the following subsection:

Riding in
crosswalks
prohibited

(26a) No person shall ride a bicycle across a roadway within or along a crosswalk at an intersection or at a location other than an intersection which location is controlled by a traffic control signal system.

23. Section 126 of the said Act is repealed and the following substituted therefor:

Slow vehicles
to travel on
right side

126.—(1) Any vehicle travelling upon a roadway at less than the normal speed of traffic at that time and place shall, where practicable, be driven in the right-hand lane then available for traffic or as close as practicable to the right hand curb or edge of the roadway.

Exception

- (2) Subsection (1) does not apply to a driver of a,
- (a) vehicle while overtaking and passing another vehicle proceeding in the same direction;
 - (b) vehicle while preparing for a left turn at an intersection or into a private road or driveway; or
 - (c) road service vehicle.

24. Subsections 127 (1), (2), (3), (4) and (5) of the said Act are repealed and the following substituted therefor:

Passing
meeting
vehicles

(1) Every person in charge of a vehicle on a highway meeting another vehicle shall turn out to the right from the centre

of the roadway, allowing the other vehicle one-half of the roadway free.

(2) Every person in charge of a vehicle or on horseback on a highway who is overtaken by a vehicle or equestrian travelling at a greater speed shall turn out to the right and allow the overtaking vehicle or equestrian to pass.

Vehicles or
equestrians
overtaken

(2a) Subsections (1) and (2) do not apply to a person in charge of a road service vehicle or a road-building machine or apparatus while the machine or apparatus is engaged in the construction of a highway.

Exception

(3) Every person in charge of a vehicle on a highway meeting a person travelling on a bicycle shall allow the cyclist sufficient room on the roadway to pass.

Vehicles
meeting
bicycles

(4) Every person in charge of a vehicle or on horseback on a highway who is overtaking another vehicle or equestrian shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or equestrian overtaken, and the person overtaken is not required to leave more than one-half of the roadway free.

Vehicles or
equestrians
overtaking
others

(5) Every person on a bicycle or motor assisted bicycle who is overtaken by a vehicle or equestrian travelling at a greater speed shall turn out to the right and allow the vehicle or equestrian to pass and the vehicle or equestrian overtaking shall turn out to the left so far as may be necessary to avoid a collision.

Bicycles
overtaken

25. Section 128 of the said Act is repealed and the following substituted therefor:

128.—(1) No vehicle shall be driven or operated to the left of the centre of a roadway designed for one or more lines of traffic in each direction,

Driving to
left of centre
prohibited
under certain
conditions

- (a) when approaching the crest of a grade or upon a curve in the roadway or within 30 metres of a bridge, viaduct or tunnel where the driver's view is obstructed within that distance so as to create a potential hazard in the event another vehicle might approach from the opposite direction; or
- (b) when approaching within 30 metres of a level railway crossing.

(2) Subsection (1) does not apply,

Exception

- (a) on a highway divided into clearly marked lanes where there are more such lanes for traffic in one direction than in the other direction;
- (b) to a road service vehicle where precautions are taken to eliminate the hazard; or
- (c) on a highway while it is designated for the use of one-way traffic.

26. Subsection 129 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 48, section 17, is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause:

- (e) a road service vehicle.

27.—(1) Clause 133 (c) of the said Act is repealed and the following substituted therefor:

- (c) any lane may be designated for slowly moving traffic, traffic moving in a particular direction or classes or types of vehicles and, notwithstanding section 121, where a highway is so designated and official signs indicating the designation are erected, every driver shall obey the instructions on the official signs.

(2) Section 133 of the said Act is amended by adding thereto the following subsection:

Exception

(2) Where safety is not jeopardized, clauses (1) (b) and (c) do not apply to road service vehicles and clause (1) (c) does not apply to road-building machines or apparatus while engaged in the construction of a highway.

28. Section 135 of the said Act is amended by adding thereto the following subsection:

Idem

(2) Notwithstanding clause (1) (a), a road service vehicle may be operated or driven along the shoulder of the highway if the vehicle remains on its side of the separation.

29. Subsection 135a (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 18, is amended by striking out “or” at the end of clause (b), by adding “or” at the end of clause (c) and by adding thereto the following clause:

- (d) the driver of a road service vehicle, if the movement is made in safety.

30.—(1) Subsection 144 (1) of the said Act is amended by striking out “or tricycle” in the second line.

(2) Subsection 144 (2) of the said Act is amended by striking out “or tricycle” in the first and second lines.

31. Section 147 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 33 and 1985, chapter 13, section 13, is further amended by adding thereto the following subsection:

(2b) Subsection (1) does not apply to a road service vehicle Exception that is parked, standing or stopped safely.

32. The said Act is further amended by adding thereto the following section:

147a.—(1) No person shall make or convey an offer of Tow truck services services of a tow truck while that person is within 200 metres of,

- (a) the scene of an accident or apparent accident; or
(b) a vehicle involved in an accident,

on the King’s Highway.

(2) No person shall park or stop a tow truck on the King’s Idem Highway within 200 metres of,

- (a) the scene of an accident or apparent accident; or
(b) a vehicle involved in an accident,

if there is a sufficient number of tow trucks already at the scene to deal with all vehicles that apparently require the services of a tow truck.

(3) Subsections (1) and (2) do not apply to a person who is Idem at the scene of the accident at the request of a police officer, an officer appointed for carrying out the provisions of this Act, a person engaged in highway maintenance or a person involved in the accident.

(4) Every person who contravenes any provision in this section is guilty of an offence and on conviction is liable, Offence

- (a) for a first offence, to a fine of not less than \$200 and not more than \$1,000; and
- (b) for each subsequent offence, to a fine of not less than \$400 and not more than \$2,000, or to imprisonment for a term of not more than six months, or to both.

Idem

(5) An offence under this section committed five years or longer after a previous conviction for an offence under this section is not a subsequent offence for the purposes of clause (4) (b).

33. Section 151 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 21, section 19 and amended by the Statutes of Ontario, 1984, chapter 61, section 6, is repealed and the following substituted therefor:

Definitions

151.—(1) In this section,

“children” means,

- (a) persons under the age of eighteen, and
- (b) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;

“developmental handicap” means a condition of mental impairment, present or occurring during a person’s formative years, that is associated with limitations in adaptive behaviour;

“school” does not include a post-secondary school educational institution;

“school bus” means a bus that,

- (a) is painted chrome yellow, and
- (b) displays on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem

(2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit for which a bus registration or validation fee was paid in any jurisdiction.

(3) No bus, except a bus that at any time during its current validation period is used to transport children or to transport adults who have developmental handicaps, shall be painted chrome yellow. Prohibition

(4) No motor vehicle on a highway, other than a school bus, shall have displayed thereon the words "school bus" or the words "do not pass when signals flashing" or be equipped with a school bus stop arm. Idem

(5) No person shall drive or operate a motor vehicle on a highway that contravenes subsection (3) or (4). Idem

(6) Subject to subsection (9), every school bus driver, Duty of driver to use signals

(a) who is about to stop on a highway for the purpose of receiving or discharging children or receiving or discharging adults who have developmental handicaps, shall actuate the overhead red signal-lights on the bus;

(b) as soon as the bus is stopped for a purpose set out in clause (a), shall actuate the school bus stop arm; and

(c) while the bus is stopped for a purpose set out in clause (a) on a highway that does not have a median strip, shall continue to operate the overhead red signal-lights and stop arm until all passengers having to cross the highway have completed the crossing.

(7) Clause 147 (1) (a) does not apply to a driver who stops in accordance with subsection (6). Exception to cl. 147 (1) (a)

(8) No person shall actuate the overhead red signal-lights or the stop arm on a school bus on a highway under any circumstances other than those set out in subsection (6). Restriction on use of signals

(9) No person shall actuate the overhead red signal-lights or the stop arm on a school bus, Idem

(a) at an intersection controlled by an operating traffic control signal system;

(b) at any other location controlled by an operating traffic control signal system at,

(i) a sign or roadway marking indicating where the stop is to be made,

- (ii) the area immediately before entering the nearest crosswalk, if there is no sign or marking indicating where the stop is to be made, or
- (iii) a point not less than five metres before the nearest traffic control signal, if there is no sign, marking or crosswalk; or

- (c) within sixty metres from a location referred to in clause (a) or (b).

Bus loading
zone

(10) No person shall stop a school bus on a highway for the purpose of receiving or discharging children or receiving or discharging adults who have developmental handicaps,

- (a) opposite a designated school bus loading zone; or
- (b) at a designated school bus loading zone, except as close as practicable to the right curb or edge of the roadway.

Duty of
drivers when
school bus
stopped

(11) Every driver or street car operator, when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its overhead red signal-lights flashing, shall stop before reaching the bus and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Idem

(12) Every driver or street car operator on a highway, when approaching from the rear a stopped school bus that has its overhead red signal-lights flashing, shall stop at least twenty metres before reaching the bus and shall not proceed until the bus moves or the overhead red signal-lights have stopped flashing.

Designating
bus loading
zones

(13) A council of a municipality may by by-law designate school bus loading zones, in accordance with the regulations, on highways under its jurisdiction and, where it does so, subsection (6) does not apply to a driver about to stop or stopping in a zone so designated.

When
effective

(14) No by-law passed under subsection (13) becomes effective until the highways or portions thereof affected have signs erected in compliance with this Act and the regulations.

Regulations

(15) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting adults who have developmental handicaps;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or for transporting adults who have developmental handicaps;
- (h) requiring the retention of prescribed books and records within vehicles and prescribing the information to be contained and the entries to be recorded in the books or records.

(16) Any regulation made under subsection (15) may be general or particular in its application. Scope of regulations

(17) Every person who contravenes subsection (11) or (12) is guilty of an offence and on conviction is liable, Penalty

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500; and
- (b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(18) An offence referred to in subsection (17) committed more than five years after a previous conviction for either of Time limit for subsequent offence

the offences referred to in subsection (17) is not a subsequent offence for the purpose of clause (17) (b).

34. Section 155 of the said Act is amended by adding thereto the following subsection:

Idem

(2) Subsection (1) does not apply to a pedestrian walking a bicycle in circumstances where crossing to the left side of the highway would be unsafe.

35. Subsection 158 (1) of the said Act is amended by adding at the end thereof “and prohibiting the use or erection of any sign or type of sign that is not prescribed”.

36. Subsection 169 (1) of the said Act is amended by inserting after “Act” in the ninth line “or the regulations” and by adding at the end thereof “upon the inconsistency arising”.

37.—(1) Subsection 181 (3) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 15, section 12, is amended by inserting after “Act” in the first line “or any municipal by-law regulating or prohibiting parking, standing or stopping”.

(2) Subsection 181 (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 63, section 43, is amended by inserting after “Act” in the first line “or any municipal by-law regulating or prohibiting parking, standing or stopping”.

38. Section 184 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 61, section 7 and 1985, chapter 13, section 14, is further amended by adding thereto the following subsection:

Report on
disabled
person
parking
by-law
conviction
R.S.O. 1980,
c. 302

(1c) Notwithstanding subsection (1), a judge, provincial judge or justice of the peace who makes a conviction under a municipal by-law passed under paragraph 119 or 150 of section 210 of the *Municipal Act* for the improper use of a disabled person parking permit issued under section 17a or the clerk of the court in which the conviction is made shall forthwith certify the conviction to the Registrar setting out the name and address of the person convicted, the number of the disabled person parking permit used in the offence, the name and address of the person or organization in whose name the disabled person parking permit is issued, the date the offence was committed and the provision of the by-law contravened.

39. Section 185 of the said Act is amended by adding thereto the following subsection:

(4) Where a licence consists of a Photo Card and a Licence Card, subsections (2) and (3) do not apply to the Photo Card portion thereof. Exception

40. Section 186 of the said Act is amended by adding thereto the following subsection:

(3) Where a licence consists of a Photo Card and a Licence Card, subsections (1) and (2) do not apply to the Photo Card portion thereof. Exception

41. The said Act is further amended by adding thereto the following section:

190a.—(1) A police officer who finds any person contravening any provision under this Act while in charge of a bicycle may require that person to stop and to provide identification of himself or herself. Cyclist to identify self

(2) Every person who is required to stop, by a police officer acting under subsection (1), shall stop and identify himself or herself to the police officer. Idem

(3) For the purposes of this section, giving one's correct name and address is sufficient identification. Idem

(4) A police officer may arrest without warrant any person who does not comply with subsection (2). Idem

42. The said Act is further amended by adding thereto the following section:

192a.—(1) A police officer or an officer appointed for carrying out the provisions of this Act who discovers a vehicle apparently abandoned on or near a highway or a motor vehicle or trailer without proper number plates may take the vehicle into the custody of the law and may cause it to be taken to and stored in a suitable place. Abandoned or unplated vehicles

(2) All costs and charges for removal, care or storage of a vehicle taken or stored under subsection (1) are a lien upon the vehicle that may be enforced in the manner provided by Part III of the *Repair and Storage Liens Act, 1989*. Costs for storage
1989, c. 17

COMPLEMENTARY AMENDMENTS

43.—(1) Paragraph 119 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 41, section 1, is repealed and the following substituted therefor:

Parking for
disabled
persons
R.S.O. 1980,
c. 198

119. For exempting the owners and drivers of vehicles displaying a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act* and the regulations made thereunder from any provision of a by-law passed by the council under this Act or under any other general or special Act for prohibiting or regulating the parking, standing or stopping of vehicles on any highway or part thereof under the jurisdiction of the council.

- (a) A by-law passed under this paragraph,
 - (i) may regulate or prohibit the parking, standing or stopping of vehicles displaying a disabled person parking permit, and the provisions authorized by this subclause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of vehicles on a highway or part thereof under the jurisdiction of the council,
 - (ii) shall prescribe the conditions of use of a disabled person parking permit, and shall prohibit the improper use thereof, and
 - (iii) may provide for the removal or impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

(2) Paragraph 150 of the said section 210 is repealed and the following substituted therefor:

Parking
facilities for
disabled
persons

R.S.O. 1980,
c. 198

150. For requiring the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for the sole use of vehicles displaying a disabled person parking permit issued under and displayed in accordance with the *Highway Traffic Act* and the regulations made thereunder and for prohibiting the use of such spaces by other vehicles.

- (a) A by-law passed under this paragraph,
 - (i) may specify the dimensions of parking spaces to be provided for the sole use of vehicles displaying a disabled person parking permit, and the number of such spaces to be provided by each owner or operator of a parking lot or other parking facility, which number may be based upon a proportion of the total number

of parking spaces in the parking lot or parking facility to which the public has access,

- (ii) shall prescribe the conditions of use of a disabled person parking permit, and shall prohibit the improper use thereof, and
- (iii) may provide for the removal or impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law.

44.—(1) This Act, except sections 3, 9, 18, 22, 32, 33, 37, 38, 41 and 43, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 3, 9, 18, 22, 32, 33, 37, 38, 41 and 43 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

45. The short title of this Act is the *Highway Traffic Amendment Act, 1989*. Short title

Bill 220

An Act to amend the Environmental Protection Act and the Ontario Water Resources Act

The Hon. J. Bradley
Minister of the Environment



1st Reading June 13th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends the *Environmental Protection Act* and the *Ontario Water Resources Act*. The amendments are grouped in three Parts as follows:

PART I—STAYS ON APPEALS

Part I of the Bill provides that decisions and orders under the two Acts will no longer be automatically stayed on appeal to the Environmental Appeal Board. The Board may grant a stay in certain circumstances.

PART II—WORK DONE BY MINISTRY

Part II of the Bill amends the two Acts to permit the Minister or Director to cause things to be done in a variety of circumstances, including the following:

1. An order or decision made under either Act requiring the things to be done is stayed.
2. An order or decision made under either Act requiring the things to be done is not likely to be complied with satisfactorily.
3. The Director has authority to make an order or decision under either Act requiring a person to do the things, but the identity of the person cannot be ascertained.

The Director may serve an order to pay the costs of doing things on any person required by an order or decision to do them. As well, if, after the Minister or Director causes something to be done, the Director ascertains the identity of a person who could have been required to do the thing, an order to pay may be served on that person.

An order to pay may be filed with the Ontario Court (General Division) and enforced as an order of the court. As well, costs specified in an order to pay may be collected as taxes in respect of land and may be recovered from deposits and financial assurances given by the person served with the order.

PART III—MISCELLANEOUS AMENDMENTS

Part III of the Bill contains miscellaneous amendments to the two Acts, including the following:

1. Amendments are made with respect to the classes of people who can be served with orders under the *Environmental Protection Act*.
2. Provision is made for flexibility in the way documents may be served under the two Acts.
3. Certain penalties are increased.
4. Limitation periods within which proceedings for an offence committed under either Act must be brought are extended.
5. Certain orders affecting land may be registered on the title of the land.

Bill 220

1990

**An Act to amend the Environmental Protection Act
and the Ontario Water Resources Act**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

STAYS ON APPEAL

Environmental Protection Act

1. Subsection 122 (2) of the *Environmental Protection Act*,
as re-enacted by the Statutes of Ontario, 1983, chapter 52, sec-
tion 17, is repealed. R.S.O. 1980,
c. 141

2. Section 122b of the Act, as enacted by the Statutes of
Ontario, 1983, chapter 52, section 19, is repealed.

3. The Act is amended by adding the following section:

122c.—(1) The commencement of a proceeding before
the Board does not stay the operation of a decision or order
made under this Act, other than an order to pay the costs of
work made under section 124e. No automatic
stay on
appeal

(2) The Board may, on the application of a party to a pro-
ceeding before it, stay the operation of a decision or order,
other than an order to monitor, record and report. Board may
grant stay

(3) The Board shall not stay the operation of a decision or
order if doing so would result in, When stay
may not be
granted

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of the
quality of the natural environment for any use that
can be made of it; or

- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Right to
apply to
remove stay:
new circum-
stances

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Board may grant the application.

Right to
apply to
remove stay:
new party

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the Board may grant the application.

Removal of
stay by
Board

(6) The Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

4. Section 123 of the Act, as amended by the Statutes of Ontario, 1981, chapter 49, section 3, is further amended by adding the following subsections:

Decision of
Board not
automatically
stayed on
appeal

(4) An appeal of a decision of the Board to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Board orders otherwise.

Divisional
Court or
Minister may
grant or set
aside stay

(5) Where a decision of the Board is appealed to the Divisional Court or to the Minister, the Divisional Court or the Minister may,

- (a) stay the operation of the decision; or
- (b) set aside a stay ordered by the Board under subsection (4).

Ontario Water Resources Act

R.S.O. 1980,
c. 361

5. Subsection 22-1 (7) of the *Ontario Water Resources Act*, as enacted by the Statutes of Ontario, 1981, chapter 50, section 1, is repealed.

6.—(1) Subsection 61 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by striking out “other than an emergency order” in the second and third lines.

(2) Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsection:

(1a) Subsection (1) does not apply in respect of a direction, order, report or notice that, in the Director's opinion, is made, given or issued in an emergency by reason of, Exception: emergency orders

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or any use of waters; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

7. Section 62 of the Act, as amended by the Statutes of Ontario, 1983, chapter 51, section 4, is repealed.

8. Section 64 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 6, is repealed and the following substituted:

64.—(1) The commencement of a proceeding before the Environmental Appeal Board does not stay the operation of a direction, order, report, notice or decision made, issued or given under this Act, other than an order to pay the costs of work made under section 48e. No automatic stay on appeal

(2) The Environmental Appeal Board may, on the application of a party to a proceeding before it, stay the operation of a direction, order, report, notice or decision. Environmental Appeal Board may grant stay

(3) The Environmental Appeal Board shall not stay the operation of a direction, order, report, notice or decision if doing so would result in, When stay may not be granted

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of any waters or any use of waters; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Environmental Appeal Board may grant the application. Right to apply to remove stay: new circumstances

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, Right to apply to remove stay: new party

apply for the removal of the stay, and the Environmental Appeal Board may grant the application.

Removal of
stay by
Environ-
mental
Appeal
Board

(6) The Environmental Appeal Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

PART II

WORK DONE BY MINISTRY

Environmental Protection Act

R.S.O. 1980,
c. 141

9. Subsection 41 (2) of the *Environmental Protection Act* is repealed.

10. Section 43 of the Act is repealed.

11. Subsection 68 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 11, is repealed.

12. The Act is amended by adding the following Part:

PART XI-A

WORK DONE BY MINISTRY

Minister may
cause things
to be done

124a. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision.

Director may
cause things
to be done

124b.—(1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

- (a) a person required by the order or decision to do the thing,
 - (i) has refused to comply with or is not complying with the order or decision,
 - (ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,
 - (iii) is not likely, in the Director's opinion, to carry out the order or decision competently, or

(iv) requests the assistance of the Director in complying with the order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1) to each person required by an order or decision made under this Act to do the thing.

Notice of intent to cause things to be done

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director.

Idem

124c. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Person liable unknown: Director may cause things to be done

124d.—(1) A person who is responsible for doing a thing under section 124a, 124b or 124c may, for the purpose, enter any place on or in which the thing is to be done and any adjacent place without a warrant if,

Entry without judicial order

(a) the entry is made with the consent of an occupier or owner of the place; or

(b) the delay necessary to obtain a warrant under subsection (2) would result in,

(i) danger to the health or safety of any person;

(ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

(iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry into or on a place is necessary for the purpose of doing a thing under section 124a, 124b or 124c, the justice of the peace may issue a warrant authorizing the person named in the warrant to make the entry and do the thing.

Warrant authorizing entry

(3) A warrant issued under subsection (2) shall,

Execution and expiry of warrant

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

Assistance

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.

Application
without
notice

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the place.

Identification

(8) On the request of an owner or occupier of the place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.

Order to pay

124e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by an order or decision made under this Act to do the thing.

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a decision or order requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person.

Order to
pay: contents

(3) An order under subsection (1) or (2) to pay costs shall include,

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and

- (c) a direction that the person to whom with the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. Idem

124f. At a hearing by the Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Board to amend the order by adding new items of cost or by increasing the amounts set out in the order. Costs specified in order to pay may be increased by Board

124g. At a hearing by the Board on an order under subsection 124e (1) to a person to pay the costs of doing things, the Board shall consider only whether any of the costs specified in the order, What Board may consider at hearing on subs. 124e (1) order to pay

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Board decision or on any appeal from a Board decision; or

- (b) are unreasonable having regard to what was done.

124h.—(1) An order to pay costs may be filed with a local registrar of the Ontario Court (General Division) and enforced as if it were an order of the court. Order to pay may be enforced as judgment of the Ontario Court (General Division)

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the Ontario Court (General Division) under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. Interest 1984, c. 11

124i.—(1) For the purposes of subsections (2) and (5), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property. Interpretation

(2) If an order to pay costs is directed to a person who owns real property in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall be deemed to be municipal taxes in respect of the property and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes. Costs specified in order to pay may be collected as taxes

Idem

(3) Money collected under subsection (2), less the costs attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario, but only to the extent that the payments do not have the effect of reducing amounts to be distributed or retained by the municipality under any other Act.

Idem

1984, c. 48

(4) Amounts deemed to be municipal taxes in respect of property under subsection (2) shall not be included in the cancellation price of the property for the purposes of the *Municipal Tax Sales Act, 1984*, unless the treasurer of the municipality considers that it would be in the interest of the municipality to include them.

Idem,
territory
without
municipal
organization
R.S.O. 1980,
c. 399

(5) If an order to pay costs is directed to a person who owns real property in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to things done in connection with that property, the Crown shall have a lien on the property for those amounts and they shall be deemed to be taxes in respect of the property imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.

Idem

(6) An instruction under subsection (2) or (5) shall state which of the amounts specified in the order to pay relate to things done in connection with the property.

Costs
specified in
order to pay
may be
recovered
from deposit,
financial
assurance

124j. Where an order to pay costs is directed to a person who has given a deposit under section 34 or financial assurance under Part X-A, the deposit or financial assurance may be used to recover amounts specified in the order to pay.

13. Section 143 of the Act is repealed.

14. Subsection 146 (1a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 14, is amended by inserting after "Act" in the second line "other than an order under section 124e".

Ontario Water Resources Act

R.S.O. 1980,
c. 361

15. The *Ontario Water Resources Act* is amended by adding the following sections:

WORK DONE BY MINISTRY

48a.—(1) Where a direction, order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the direction, order or decision.

Minister may
cause things
to be done

(2) Subsection (1) does not apply in respect of reports made under section 33.

Exception

48b.—(1) Where a direction, order or decision made by the Director or Minister under this Act is not stayed, the Director may cause to be done any thing required by it if,

Director may
cause things
to be done

(a) a person required by the direction, order or decision to do the thing,

(i) has refused to comply with or is not complying with the direction, order or decision,

(ii) is not likely, in the Director's opinion, to comply with the direction, order or decision promptly,

(iii) is not likely, in the Director's opinion, to carry out the direction, order or decision competently, or

(iv) requests the assistance of the Director in complying with the direction, order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) Subsection (1) does not apply in respect of reports made under section 33.

Exception

(3) The Director shall give notice of an intention to cause a thing to be done under this section to each person required by a direction, order or decision made under this Act to do the thing.

Notice of
intent to
cause things
to be done

(4) A person who receives a notice under subsection (3) shall not do the thing referred to in the notice without the permission of the Director.

Idem

48c. Where the Director is authorized by this Act to make a direction, order or decision requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Person liable
unknown:
Director may
cause things
to be done

Entry on
land without
judicial order

48d.—(1) A person who is responsible for doing a thing under section 48a, 48b or 48c may, for the purpose, enter on land on which the thing is to be done and on adjacent lands without a warrant if,

- (a) the entry is made with the consent of an occupier or owner of the land; or
- (b) the delay necessary to obtain a warrant under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of any waters or any use of waters, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Warrant
authorizing
entry on land

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry on certain land is necessary for the purpose of doing a thing under section 48a, 48b or 48c, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land.

Execution
and expiry of
warrant

(3) A warrant issued under subsection (2) shall,

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter on land for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

Assistance

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the land.

Application without notice

(8) On the request of an owner or occupier of the land, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.

Identification

48e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by a direction, order or decision made under this Act to do the thing.

Order to pay

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a direction, order or decision requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person.

Idem

(3) An order under subsection (1) or (2) to pay costs shall include,

Order to pay: contents

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and
- (c) a direction that the person to whom the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done.

Idem

48f. At a hearing by the Environmental Appeal Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Environmental Appeal Board to amend the order by adding new items of cost or by increasing the amounts set out in the order.

Costs specified in order to pay may be increased by Environmental Appeal Board

48g. At a hearing by the Environmental Appeal Board on an order under subsection 48e (1) to a person to pay the costs of doing things, the Environmental Appeal Board shall consider only whether any of the costs specified in the order,

What Environmental Appeal Board may consider at hearing on subs. 48e (1) order to pay

- (a) do not relate to a thing that the person was required to do by a direction, order or decision made under this Act, as amended by any Environmental Appeal Board decision or on any appeal from an Environmental Appeal Board decision; or

- (b) are unreasonable having regard to what was done.

Order to pay
may be
enforced as
judgment of
the Ontario
Court
(General
Division)

Interest
1984, c. 11

48h.—(1) An order to pay costs may be filed with a local registrar of the Ontario Court (General Division) and enforced as if it were an order of the court.

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the Ontario Court (General Division) under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

Interpretation

48i.—(1) For the purposes of subsections (2) and (5), a thing done as a result of activities or conditions on land is a thing done in connection with that land, whether or not the work is done on that land.

Costs
specified in
order to pay
may be
collected as
taxes

(2) If an order to pay costs is directed to a person who owns land in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that land, the municipality shall have a lien on the land for those amounts and they shall be deemed to be municipal taxes in respect of the land and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

Idem

(3) Money collected under subsection (2), less the costs attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario, but only to the extent that the payments do not have the effect of reducing amounts to be distributed or retained by the municipality under any other Act.

Idem

1984, c. 48

(4) Amounts deemed to be municipal taxes in respect of land under subsection (2) shall not be included in the cancellation price of the land for the purposes of the *Municipal Tax Sales Act, 1984*, unless the treasurer of the municipality considers that it would be in the interest of the municipality to include them.

Idem,
territory
without
municipal
organization

(5) If an order to pay costs is directed to a person who owns land in territory without municipal organization, and the

Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to work done in connection with that land, the Crown shall have a lien on the land for those amounts and they shall be deemed to be taxes in respect of the land imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.

R.S.O. 1980,
c. 399

(6) An instruction under subsection (2) or (5) shall state which of the amounts specified in the order to pay relate to things done in connection with the land.

Idem

48j. Where an order to pay costs is directed to a person who has given financial assurance under Part X-A of the *Environmental Protection Act*, the financial assurance may be used to recover amounts specified in the order to pay.

Costs
specified in
order to pay
may be
recovered
from
financial
assurance
R.S.O. 1980,
c. 141

16. Section 55 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 88, is repealed.

17. Subsection 66 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41 and amended by 1988, chapter 54, section 88, is further amended by inserting after "Act" in the third line "other than an order under section 48e".

PART III

MISCELLANEOUS

Environmental Protection Act

18. Subsection 6 (1) of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1986, chapter 68, section 3 and 1988, chapter 54, section 3, is repealed and the following substituted:

R.S.O. 1980,
c. 141

(1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 13 or the regulations, the Director may issue a control order directed to,

Control
orders

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or

- (c) a person who has or had the charge, management or control of the source of contaminant.

19. Subsection 7 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 4, is further amended by striking out “the person responsible for the source of contaminant” at the end and by adding the following clauses:

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

20. Section 16 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 12, is repealed and the following substituted:

Remedial
orders

16. Where any person causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered, the Director may order the person to,

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide alternate water supplies.

21. Subsection 17 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 6 and amended by 1988, chapter 54, section 13, is further amended by striking out “or who has” in the third line and substituting “or owned or who has or had”.

22. Subsection 41 (1) of the Act is amended by striking out “the occupant or the person having” in the fourth line and substituting “an owner or previous owner, an occupant or previous occupant or a person who has or had”.

23. Section 42 of the Act is amended by striking out “the owner” in the third line and substituting “an owner or previous owner”.

24. The Act is amended by renumbering section 122a, as enacted by the Statutes of Ontario, 1983, chapter 52, section 18, as section 122b and by adding the following section:

122a. The Board shall extend the time in which a person may give a notice under section 121 or 122 requiring a hearing on an order or decision where, in the Board's opinion, it is just to do so because service of the order or decision on the person did not give the person notice of the order or decision.

Extension of
time for
requiring
hearing

25. Subsection 136 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23 and 1988, chapter 54, section 45, is further amended by adding the following clauses:

- (r) providing for the method of service of any document or class of documents given or served under this Act;
- (s) prescribing any matter referred to in this Act as prescribed.

26.—(1) Subsection 142 (1) of the Act is repealed and the following substituted:

(1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

Service

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations respecting service.

(2) Subsection 142 (2) of the Act is amended by striking out "registered" in the first line.

27. Subsection 146a (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 15 and amended by 1989, chapter 72, section 32, is repealed and the following substituted:

(1) Every corporation convicted of a contravention of subsection 13 (1) or 119 (1) is liable on conviction for each day or part of a day on which the offence occurs or continues to a fine of not less than \$2,000 and not more than \$200,000 on a

Penalty re
actual
pollution

first conviction and not less than \$4,000 and not more than \$400,000 on each subsequent conviction and not as provided in section 146.

28. Subsections 147 (3) and (4) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 68, section 16 and amended by 1988, chapter 54, section 49 and 1989, chapter 72, section 32, are repealed and the following substituted:

Penalty
where
adverse effect
occurs

(3) Where a natural person is convicted of an offence referred to in subsection (1) that results in an adverse effect, the person is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$50,000 on a first conviction and not less than \$4,000 and not more than \$100,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Idem,
corporation

(4) Where a corporation is convicted of an offence referred to in subsection (1) that results in an adverse effect, the corporation is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$1,000,000 on a first conviction and not less than \$4,000 and not more than \$2,000,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

29. Section 148 of the Act, as enacted by the Statutes of Ontario, 1981, chapter 49, section 5, is repealed and the following substituted:

Limitation

148.—(1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

Idem

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section.

30. Section 149 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 25, is amended by adding the following subsection:

Idem

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, manage-

ment or control of the place to permit access to the place for the purpose of doing the thing.

31. The Act is further amended by adding the following section:

150.—(1) A person who has authority under this Act to make an order or decision affecting real property also has authority to prohibit any person with an interest in the property from dealing with the property in any way without first giving a copy of the order or decision to each person acquiring an interest in the property as a result of the dealing.

Certain
dealings with
real property
prohibited

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Registration
of
prohibitions

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

Idem

(4) A dealing with real property by a person who is prohibited under subsection (1) or (3) from dealing with the property without giving a copy of an order or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the property as a result of the dealing.

Prohibited
dealings
voidable

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Registration
of withdrawal
of prohibition

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem
R.S.O. 1980,
c. 445

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

Idem

Ontario Water Resources Act

R.S.O. 1980,
c. 361

32. Subsection 44 (1) of the *Ontario Water Resources Act*, as amended by the Statutes of Ontario, 1981, chapter 50, section 2, 1983, chapter 51, section 3, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is further amended by adding the following clauses:

- (ta) providing for the method of service of any document or class of document given or served under this Act;
- (tb) prescribing any matter referred to in this Act as prescribed.

33. Section 54 of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 50, section 3, is repealed and the following substituted:

Limitations

54.—(1) Proceedings for an offence under this Act or the regulations made under this Act shall not be commenced later than two years after the later of,

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

Idem

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section.

34. Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsection:

Extension of
time for
requiring
hearing

(2c) The Environmental Appeal Board shall extend the time in which a person may give a notice under subsection (2a) requiring a hearing on a notice, direction, report, order or other decision where, in the opinion of the Environmental Appeal Board, it is just to do so because service of the notice referred to in subsection (2) did not give the person notice of the decision.

35. The Act is amended by adding the following section:

Certain
dealings with
land
prohibited

64a.—(1) A person who has authority under this Act to make a direction, order, notice or decision affecting land also has authority to prohibit any person with an interest in the

land from dealing with the land in any way without first giving a copy of the direction, order, notice or decision to each person acquiring an interest in the land as a result of the dealing.

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Registration
of
prohibitions

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the land.

Idem

(4) A dealing with land by a person who is prohibited under subsection (1) or (3) from dealing with the land without giving a copy of a direction, order, notice or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the land as a result of the dealing.

Prohibited
dealings with
land voidable

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Registration
of withdrawal
of prohibition

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem
R.S.O. 1980,
c. 445

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

Idem

36. Section 65 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 7, is amended by adding the following subsection:

(3) A person who has authority under this Act to make an order requiring that a thing be done on land also has authority to make an order requiring any person who owns, occupies or has the charge, management or control of the land to permit access to the land for the purpose of doing the thing.

Idem

37.—(1) Subsection 65b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is repealed and the following substituted:

Service

(1) Any document given or served under this Act or the regulations made under this Act is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations made under this Act respecting service.

(2) Subsection 65b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is amended by striking out “registered” in the first line.

Commence-
ment

38. This Act comes into force on the day it receives Royal Assent.

Short title

39. The short title of this Act is the *Environmental Protection Statute Law Amendment Act, 1990*.

20N

Government
Publication

Bill 220

Government Bill

2ND SESSION, 34TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 220

An Act to amend the Environmental Protection Act and the Ontario Water Resources Act

The Hon. J. Bradley
Minister of the Environment



1st Reading June 13th, 1990
2nd Reading June 27th, 1990
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The Bill amends the *Environmental Protection Act* and the *Ontario Water Resources Act*. The amendments are grouped in three Parts as follows:

PART I—STAYS ON APPEALS

Part I of the Bill provides that decisions and orders under the two Acts will no longer be automatically stayed on appeal to the Environmental Appeal Board. The Board may grant a stay in certain circumstances.

PART II—WORK DONE BY MINISTRY

Part II of the Bill amends the two Acts to permit the Minister or Director to cause things to be done in a variety of circumstances, including the following:

1. An order or decision made under either Act requiring the things to be done is stayed.
2. An order or decision made under either Act requiring the things to be done is not likely to be complied with satisfactorily.
3. The Director has authority to make an order or decision under either Act requiring a person to do the things, but the identity of the person cannot be ascertained.

The Director may serve an order to pay the costs of doing things on any person required by an order or decision to do them. As well, if, after the Minister or Director causes something to be done, the Director ascertains the identity of a person who could have been required to do the thing, an order to pay may be served on that person.

An order to pay may be filed with the District Court and enforced as an order of the court. As well, costs specified in an order to pay may be collected as taxes in respect of land and may be recovered from deposits and financial assurances given by the person served with the order.

PART III—MISCELLANEOUS AMENDMENTS

Part III of the Bill contains miscellaneous amendments to the two Acts, including the following:

1. Amendments are made with respect to the classes of people who can be served with orders under the *Environmental Protection Act*.
2. Provision is made for flexibility in the way documents may be served under the two Acts.
3. Certain penalties are increased.
4. Limitation periods within which proceedings for an offence committed under either Act must be brought are extended.
5. Certain orders affecting land may be registered on the title of the land.

Bill 220

1990

**An Act to amend the Environmental Protection Act
and the Ontario Water Resources Act**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

STAYS ON APPEAL

Environmental Protection Act

1. Subsection 122 (2) of the *Environmental Protection Act*,
as re-enacted by the Statutes of Ontario, 1983, chapter 52, sec-
tion 17, is repealed. R.S.O. 1980,
c. 141

2. Section 122b of the Act, as enacted by the Statutes of
Ontario, 1983, chapter 52, section 19, is repealed.

3. The Act is amended by adding the following section:

122c.—(1) The commencement of a proceeding before
the Board does not stay the operation of a decision or order
made under this Act, other than an order to pay the costs of
work made under section 124e. No automatic
stay on
appeal

(2) The Board may, on the application of a party to a pro-
ceeding before it, stay the operation of a decision or order,
other than an order to monitor, record and report. Board may
grant stay

(3) The Board shall not stay the operation of a decision or
order if doing so would result in, When stay
may not be
granted

(a) danger to the health or safety of any person;

(b) impairment or serious risk of impairment of the
quality of the natural environment for any use that
can be made of it; or

- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Right to
apply to
remove stay:
new circum-
stances

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Board may grant the application.

Right to
apply to
remove stay:
new party

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the Board may grant the application.

Removal of
stay by
Board

(6) The Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

4. Section 123 of the Act, as amended by the Statutes of Ontario, 1981, chapter 49, section 3, is further amended by adding the following subsections:

Decision of
Board not
automatically
stayed on
appeal

(4) An appeal of a decision of the Board to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Board orders otherwise.

Divisional
Court or
Minister may
grant or set
aside stay

(5) Where a decision of the Board is appealed to the Divisional Court or to the Minister, the Divisional Court or the Minister may,

(a) stay the operation of the decision; or

(b) set aside a stay ordered by the Board under subsection (4).

Ontario Water Resources Act

R.S.O. 1980,
c. 361

5. Subsection 22-1 (7) of the *Ontario Water Resources Act*, as enacted by the Statutes of Ontario, 1981, chapter 50, section 1, is repealed.

6.—(1) Subsection 61 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by striking out “other than an emergency order” in the second and third lines.

(2) Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsection:

(1a) Subsection (1) does not apply in respect of a direction, order, report or notice that, in the Director's opinion, is made, given or issued in an emergency by reason of,

Exception:
emergency
orders

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or any use of waters; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

7. Section 62 of the Act, as amended by the Statutes of Ontario, 1983, chapter 51, section 4, is repealed.

8. Section 64 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 6, is repealed and the following substituted:

64.—(1) The commencement of a proceeding before the Environmental Appeal Board does not stay the operation of a direction, order, report, notice or decision made, issued or given under this Act, other than an order to pay the costs of work made under section 48e.

No automatic
stay on
appeal

(2) The Environmental Appeal Board may, on the application of a party to a proceeding before it, stay the operation of a direction, order, report, notice or decision.

Environ-
mental
Appeal
Board may
grant stay

(3) The Environmental Appeal Board shall not stay the operation of a direction, order, report, notice or decision if doing so would result in,

When stay
may not be
granted

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of any waters or any use of waters; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Environmental Appeal Board may grant the application.

Right to
apply to
remove stay:
new circum-
stances

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party,

Right to
apply to
remove stay:
new party

apply for the removal of the stay, and the Environmental Appeal Board may grant the application.

Removal of
stay by
Environ-
mental
Appeal
Board

(6) The Environmental Appeal Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

PART II

WORK DONE BY MINISTRY

Environmental Protection Act

R.S.O. 1980,
c. 141

9. Subsection 41 (2) of the *Environmental Protection Act* is repealed.

10. Section 43 of the Act is repealed.

11. Subsection 68 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 11, is repealed.

12. The Act is amended by adding the following Part:

PART XI-A

WORK DONE BY MINISTRY

Minister may
cause things
to be done

124a. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision.

Director may
cause things
to be done

124b.—(1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

- (a) a person required by the order or decision to do the thing,
 - (i) has refused to comply with or is not complying with the order or decision,
 - (ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,
 - (iii) is not likely, in the Director's opinion, to carry out the order or decision competently,
or

(iv) requests the assistance of the Director in complying with the order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1) to each person required by an order or decision made under this Act to do the thing.

Notice of
intent to
cause things
to be done

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director.

Idem

124c. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Person liable
unknown:
Director may
cause things
to be done

124d.—(1) A person who is responsible for doing a thing under section 124a, 124b or 124c may, for the purpose, enter any place on or in which the thing is to be done and any adjacent place without a warrant if,

Entry
without
judicial order

(a) the entry is made with the consent of an occupier or owner of the place; or

(b) the delay necessary to obtain a warrant under subsection (2) would result in,

(i) danger to the health or safety of any person;

(ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

(iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry into or on a place is necessary for the purpose of doing a thing under section 124a, 124b or 124c, the justice of the peace may issue a warrant authorizing the person named in the warrant to make the entry and do the thing.

Warrant
authorizing
entry

(3) A warrant issued under subsection (2) shall,

Execution
and expiry of
warrant

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

Assistance

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.

Application
without
notice

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the place.

Identification

(8) On the request of an owner or occupier of the place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.

Order to pay

124e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by an order or decision made under this Act to do the thing.

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a decision or order requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person.

Order to
pay: contents

(3) An order under subsection (1) or (2) to pay costs shall include,

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and

- (c) a direction that the person to whom with the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. Idem

124f. At a hearing by the Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Board to amend the order by adding new items of cost or by increasing the amounts set out in the order. Costs specified in order to pay may be increased by Board

124g. At a hearing by the Board on an order under subsection 124e (1) to a person to pay the costs of doing things, the Board shall consider only whether any of the costs specified in the order, What Board may consider at hearing on subs. 124e (1) order to pay

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Board decision or on any appeal from a Board decision; or



- (b) are unreasonable having regard to what was done.

124h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court. Order to pay may be enforced as judgment of the District Court

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. Interest 1984, c. 11

124i.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property. Interpretation

(2) If an order to pay costs is directed to a person who owns real property in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall be deemed to be municipal taxes in respect of the property and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes. Costs specified in order to pay may be collected as taxes

-  Idem (3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.
- 1984, c. 84
- Idem (4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario.
- Interpretation: cancellation price (5) In subsections (6) and (7), “cancellation price” has the same meaning as in the *Municipal Tax Sales Act, 1984*.
- Proceeds of tax sale R.S.O. 1980, c. 166, 361 (6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Fire Marshals Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.
- Cancellation price (7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Marshals Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*. 
- Idem, territory without municipal organization R.S.O. 1980, c. 399 (8) If an order to pay costs is directed to a person who owns real property in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to things done in connection with that property, the Crown shall have a lien on the property for those amounts and they shall be deemed to be taxes in respect of the property imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.
- Idem (9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the property.
- Costs specified in order to pay may be recovered from deposit, financial assurance **124j.** Where an order to pay costs is directed to a person who has given a deposit under section 34 or financial assurance under Part X-A, the deposit or financial assurance may be used to recover amounts specified in the order to pay.

13. Section 143 of the Act is repealed.

14. Subsection 146 (1a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 14, is amended by inserting after "Act" in the second line "other than an order under section 124e".

Ontario Water Resources Act

15. The *Ontario Water Resources Act* is amended by adding the following sections: R.S.O. 1980,
c. 361

WORK DONE BY MINISTRY

48a.—(1) Where a direction, order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the direction, order or decision. Minister may
cause things
to be done

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

48b.—(1) Where a direction, order or decision made by the Director or Minister under this Act is not stayed, the Director may cause to be done any thing required by it if, Director may
cause things
to be done

(a) a person required by the direction, order or decision to do the thing,

(i) has refused to comply with or is not complying with the direction, order or decision,

(ii) is not likely, in the Director's opinion, to comply with the direction, order or decision promptly,

(iii) is not likely, in the Director's opinion, to carry out the direction, order or decision competently, or

(iv) requests the assistance of the Director in complying with the direction, order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

(3) The Director shall give notice of an intention to cause a thing to be done under this section to each person required by Notice of
intent to
cause things
to be done

a direction, order or decision made under this Act to do the thing.

Idem

(4) A person who receives a notice under subsection (3) shall not do the thing referred to in the notice without the permission of the Director.

Person liable
unknown:
Director may
cause things
to be done

48c. Where the Director is authorized by this Act to make a direction, order or decision requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Entry on
land without
judicial order

48d.—(1) A person who is responsible for doing a thing under section 48a, 48b or 48c may, for the purpose, enter on land on which the thing is to be done and on adjacent lands without a warrant if,

- (a) the entry is made with the consent of an occupier or owner of the land; or
- (b) the delay necessary to obtain a warrant under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of any waters or any use of waters, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Warrant
authorizing
entry on land

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry on certain land is necessary for the purpose of doing a thing under section 48a, 48b or 48c, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land.

Execution
and expiry of
warrant

(3) A warrant issued under subsection (2) shall,

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

(5) A person authorized under clause (1) (b) or subsection (2) to enter on land for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing. Use of force

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant. Assistance

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the land. Application without notice

(8) On the request of an owner or occupier of the land, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. Identification

48e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by a direction, order or decision made under this Act to do the thing. Order to pay

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a direction, order or decision requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person. Idem

(3) An order under subsection (1) or (2) to pay costs shall include, Order to pay: contents

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and
- (c) a direction that the person to whom the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. Idem

Costs specified in order to pay may be increased by Environmental Appeal Board
What Environmental Appeal Board may consider at hearing on subs. 48e (1) order to pay

48f. At a hearing by the Environmental Appeal Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Environmental Appeal Board to amend the order by adding new items of cost or by increasing the amounts set out in the order.

48g. At a hearing by the Environmental Appeal Board on an order under subsection 48e (1) to a person to pay the costs of doing things, the Environmental Appeal Board shall consider only whether any of the costs specified in the order,

- (a) do not relate to a thing that the person was required to do by a direction, order or decision made under this Act, as amended by any Environmental Appeal Board decision or on any appeal from an Environmental Appeal Board decision; or

- (b) are unreasonable having regard to what was done.

Order to pay may be enforced as judgment of the District Court
Interest
1984, c. 11

48h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court.

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

Interpretation

48i.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on land is a thing done in connection with that land, whether or not the work is done on that land.

Costs specified in order to pay may be collected as taxes

(2) If an order to pay costs is directed to a person who owns land in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that land, the municipality shall have a lien on the land for those amounts and they shall be deemed to be municipal taxes in respect of the land and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

Idem

1984, c. 84

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.

(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario. Idem

(5) In subsections (6) and (7), "cancellation price" has the same meaning as in the *Municipal Tax Sales Act, 1984*. Interpretation:
cancellation price

(6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Environmental Protection Act* or the *Fire Marshals Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. Proceeds of tax sale
R.S.O. 1980, c. 141, 166

(7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Environmental Protection Act* and the *Fire Marshals Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*. Cancellation price

(8) If an order to pay costs is directed to a person who owns land in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to work done in connection with that land, the Crown shall have a lien on the land for those amounts and they shall be deemed to be taxes in respect of the land imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act. Idem, territory without municipal organization
R.S.O. 1980, c. 399

(9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the land. Idem

48j. Where an order to pay costs is directed to a person who has given financial assurance under Part X-A of the *Environmental Protection Act*, the financial assurance may be used to recover amounts specified in the order to pay. Costs specified in order to pay may be recovered from financial assurance
R.S.O. 1980, c. 141

16. Section 55 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 88, is repealed.

17. Subsection 66 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41 and amended by 1988,

chapter 54, section 88, is further amended by inserting after “Act” in the third line “other than an order under section 48e”.

PART III

MISCELLANEOUS

Environmental Protection Act

R.S.O. 1980,
c. 141

18. Subsection 6 (1) of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1986, chapter 68, section 3 and 1988, chapter 54, section 3, is repealed and the following substituted:

Control
orders

(1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 13 or the regulations, the Director may issue a control order directed to,

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

19. Subsection 7 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 4, is further amended by striking out “the person responsible for the source of contaminant” at the end and by adding the following clauses:

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

20. Section 16 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 12, is repealed and the following substituted:

16. Where any person causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered, the Director may order the person to,

Remedial
orders

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide alternate water supplies.

21. Subsection 17 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 6 and amended by 1988, chapter 54, section 13, is further amended by striking out “or who has” in the third line and substituting “or owned or who has or had”.

22. Subsection 41 (1) of the Act is amended by striking out “the occupant or the person having” in the fourth line and substituting “an owner or previous owner, an occupant or previous occupant or a person who has or had”.

23. Section 42 of the Act is amended by striking out “the owner” in the third line and substituting “an owner or previous owner”.

24. The Act is amended by adding the following section:

120a. When the Director makes an order or decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the order or decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the order or decision requires something to be done, permits something to be done or prohibits something from being done.

Notice to
municipalities

25. The Act is further amended by renumbering section 122a, as enacted by the Statutes of Ontario, 1983, chapter 52, section 18, as section 122b and by adding the following section:

122a. The Board shall extend the time in which a person may give a notice under section 121 or 122 requiring a hearing on an order or decision where, in the Board's opinion, it is just to do so because service of the order or decision on the person did not give the person notice of the order or decision.

Extension of
time for
requiring
hearing

26. Subsection 136 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23 and 1988, chapter 54, section 45, is further amended by adding the following clauses:

- (r) providing for the method of service of any document or class of documents given or served under this Act;
- (s) prescribing any matter referred to in this Act as prescribed.

27.—(1) Subsection 142 (1) of the Act is repealed and the following substituted:

Service

(1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations respecting service.

(2) Subsection 142 (2) of the Act is amended by striking out “registered” in the first line.

28. Subsection 146a (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 15 and amended by 1989, chapter 72, section 32, is repealed and the following substituted:

Penalty re
actual
pollution

(1) Every corporation convicted of a contravention of subsection 13 (1) or 119 (1) is liable on conviction for each day or part of a day on which the offence occurs or continues to a fine of not less than \$2,000 and not more than \$200,000 on a first conviction and not less than \$4,000 and not more than \$400,000 on each subsequent conviction and not as provided in section 146.

29. Subsections 147 (3) and (4) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 68, section 16 and amended by 1988, chapter 54, section 49 and 1989, chapter 72, section 32, are repealed and the following substituted:

(3) Where a natural person is convicted of an offence referred to in subsection (1) that results in an adverse effect, the person is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$50,000 on a first conviction and not less than \$4,000 and not more than \$100,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Penalty
where
adverse effect
occurs

(4) Where a corporation is convicted of an offence referred to in subsection (1) that results in an adverse effect, the corporation is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$1,000,000 on a first conviction and not less than \$4,000 and not more than \$2,000,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Idem.
corporation

30. Section 148 of the Act, as enacted by the Statutes of Ontario, 1981, chapter 49, section 5, is repealed and the following substituted:

148.—(1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

Limitation

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section.

Idem

31. Section 149 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 25, is amended by adding the following subsection:

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.

Idem

32. The Act is further amended by adding the following section:

150.—(1) A person who has authority under this Act to make an order or decision affecting real property also has authority to prohibit any person with an interest in the prop-

Certain
dealings with
real property
prohibited

erty from dealing with the property in any way without first giving a copy of the order or decision to each person acquiring an interest in the property as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

Prohibited
dealings
voidable

(4) A dealing with real property by a person who is prohibited under subsection (1) or (3) from dealing with the property without giving a copy of an order or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the property as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

Ontario Water Resources Act

R.S.O. 1980,
c. 361

33. Subsection 44 (1) of the *Ontario Water Resources Act*, as amended by the Statutes of Ontario, 1981, chapter 50, section 2, 1983, chapter 51, section 3, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is further amended by adding the following clauses:

- (ta) providing for the method of service of any document or class of document given or served under this Act;

- (tb) prescribing any matter referred to in this Act as prescribed.

34. Section 54 of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 50, section 3, is repealed and the following substituted:

54.—(1) Proceedings for an offence under this Act or the regulations made under this Act shall not be commenced later than two years after the later of, Limitations

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section. Idem

35. Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsections:

(2c) The Environmental Appeal Board shall extend the time in which a person may give a notice under subsection (2a) requiring a hearing on a notice, direction, report, order or other decision where, in the opinion of the Environmental Appeal Board, it is just to do so because service of the notice referred to in subsection (2) did not give the person notice of the decision. Extension of time for requiring hearing

(2d) When the Director makes a notice, direction, report, order or other decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the notice, direction, report, order or other decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the notice, direction, report, order or other decision requires something to be done, permits something to be done or prohibits something from being done. Notice to municipalities

36. The Act is amended by adding the following section:

64a.—(1) A person who has authority under this Act to make a direction, order, notice or decision affecting land also has authority to prohibit any person with an interest in the land from dealing with the land in any way without first giving Certain dealings with land prohibited

a copy of the direction, order, notice or decision to each person acquiring an interest in the land as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the land.

Prohibited
dealings with
land voidable

(4) A dealing with land by a person who is prohibited under subsection (1) or (3) from dealing with the land without giving a copy of a direction, order, notice or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the land as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

37. Section 65 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 7, is amended by adding the following subsection:

Idem

(3) A person who has authority under this Act to make an order requiring that a thing be done on land also has authority to make an order requiring any person who owns, occupies or has the charge, management or control of the land to permit access to the land for the purpose of doing the thing.

38.—(1) Subsection 65b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is repealed and the following substituted:

(1) Any document given or served under this Act or the regulations made under this Act is sufficiently given or served if it is, Service

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations made under this Act respecting service.

(2) Subsection 65b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is amended by striking out “registered” in the first line.

39. This Act comes into force on the day it receives Royal Assent. Commence-
ment

40. The short title of this Act is the *Environmental Protection Statute Law Amendment Act, 1990*. Short title

Bill 220

2ND SESSION, 34TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 220

(Chapter 18
Statutes of Ontario, 1990)

An Act to amend the Environmental Protection Act and the Ontario Water Resources Act

The Hon. J. Bradley
Minister of the Environment



<i>1st Reading</i>	June 13th, 1990
<i>2nd Reading</i>	June 27th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 220

1990

**An Act to amend the Environmental Protection Act
and the Ontario Water Resources Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

STAYS ON APPEAL

Environmental Protection Act

1. Subsection 122 (2) of the *Environmental Protection Act*, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 17, is repealed. R.S.O. 1980,
c. 141

2. Section 122b of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 19, is repealed.

3. The Act is amended by adding the following section:

122c.—(1) The commencement of a proceeding before the Board does not stay the operation of a decision or order made under this Act, other than an order to pay the costs of work made under section 124e. No automatic
stay on
appeal

(2) The Board may, on the application of a party to a proceeding before it, stay the operation of a decision or order, other than an order to monitor, record and report. Board may
grant stay

(3) The Board shall not stay the operation of a decision or order if doing so would result in, When stay
may not be
granted

(a) danger to the health or safety of any person;

(b) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Right to
apply to
remove stay:
new circum-
stances

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Board may grant the application.

Right to
apply to
remove stay:
new party

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party, apply for the removal of the stay, and the Board may grant the application.

Removal of
stay by
Board

(6) The Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

4. Section 123 of the Act, as amended by the Statutes of Ontario, 1981, chapter 49, section 3, is further amended by adding the following subsections:

Decision of
Board not
automatically
stayed on
appeal

(4) An appeal of a decision of the Board to the Divisional Court or to the Minister does not stay the operation of the decision, unless the Board orders otherwise.

Divisional
Court or
Minister may
grant or set
aside stay

(5) Where a decision of the Board is appealed to the Divisional Court or to the Minister, the Divisional Court or the Minister may,

- (a) stay the operation of the decision; or
- (b) set aside a stay ordered by the Board under subsection (4).

Ontario Water Resources Act

R.S.O. 1980,
c. 361

5. Subsection 22-1 (7) of the *Ontario Water Resources Act*, as enacted by the Statutes of Ontario, 1981, chapter 50, section 1, is repealed.

6.—(1) Subsection 61 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by striking out “other than an emergency order” in the second and third lines.

(2) Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsection:

(1a) Subsection (1) does not apply in respect of a direction, order, report or notice that, in the Director's opinion, is made, given or issued in an emergency by reason of,

Exception:
emergency
orders

- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or any use of waters; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

7. Section 62 of the Act, as amended by the Statutes of Ontario, 1983, chapter 51, section 4, is repealed.

8. Section 64 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 6, is repealed and the following substituted:

64.—(1) The commencement of a proceeding before the Environmental Appeal Board does not stay the operation of a direction, order, report, notice or decision made, issued or given under this Act, other than an order to pay the costs of work made under section 48e.

No automatic
stay on
appeal

(2) The Environmental Appeal Board may, on the application of a party to a proceeding before it, stay the operation of a direction, order, report, notice or decision.

Environ-
mental
Appeal
Board may
grant stay

(3) The Environmental Appeal Board shall not stay the operation of a direction, order, report, notice or decision if doing so would result in,

When stay
may not be
granted

- (a) danger to the health or safety of any person;
- (b) impairment or serious risk of impairment of any waters or any use of waters; or
- (c) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(4) A party to a proceeding may apply for the removal of a stay if relevant circumstances have changed or have become known to the party since the stay was granted, and the Environmental Appeal Board may grant the application.

Right to
apply to
remove stay:
new circum-
stances

(5) A person who is made a party to a proceeding after a stay is granted may, at the time the person is made a party,

Right to
apply to
remove stay:
new party

apply for the removal of the stay, and the Environmental Appeal Board may grant the application.

Removal of
stay by
Environ-
mental
Appeal
Board

(6) The Environmental Appeal Board, on the application of a party under subsection (4) or (5), shall remove a stay if failure to do so would have one or more of the results mentioned in clauses (3) (a) to (c).

PART II

WORK DONE BY MINISTRY

Environmental Protection Act

R.S.O. 1980,
c. 141

9. Subsection 41 (2) of the *Environmental Protection Act* is repealed.

10. Section 43 of the Act is repealed.

11. Subsection 68 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 11, is repealed.

12. The Act is amended by adding the following Part:

PART XI-A

WORK DONE BY MINISTRY

Minister may
cause things
to be done

124a. Where an order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the order or decision.

Director may
cause things
to be done

124b.—(1) Where an order or decision made under this Act is not stayed, the Director may cause to be done any thing required by it if,

- (a) a person required by the order or decision to do the thing,
 - (i) has refused to comply with or is not complying with the order or decision,
 - (ii) is not likely, in the Director's opinion, to comply with the order or decision promptly,
 - (iii) is not likely, in the Director's opinion, to carry out the order or decision competently, or

(iv) requests the assistance of the Director in complying with the order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) The Director shall give notice of an intention to cause a thing to be done under subsection (1) to each person required by an order or decision made under this Act to do the thing.

Notice of intent to cause things to be done

(3) A person who receives a notice under subsection (2) shall not do the thing referred to in the notice without the permission of the Director.

Idem

124c. Where the Director is authorized by this Act to make a decision or order requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Person liable unknown: Director may cause things to be done

124d.—(1) A person who is responsible for doing a thing under section 124a, 124b or 124c may, for the purpose, enter any place on or in which the thing is to be done and any adjacent place without a warrant if,

Entry without judicial order

(a) the entry is made with the consent of an occupier or owner of the place; or

(b) the delay necessary to obtain a warrant under subsection (2) would result in,

(i) danger to the health or safety of any person;

(ii) impairment or serious risk of impairment of the quality of the natural environment for any use that can be made of it; or

(iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry into or on a place is necessary for the purpose of doing a thing under section 124a, 124b or 124c, the justice of the peace may issue a warrant authorizing the person named in the warrant to make the entry and do the thing.

Warrant authorizing entry

(3) A warrant issued under subsection (2) shall,

Execution and expiry of warrant

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

Use of force

(5) A person authorized under clause (1) (b) or subsection (2) to enter a place for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

Assistance

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant.

Application
without
notice

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the place.

Identification

(8) On the request of an owner or occupier of the place, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry.

Order to pay

124e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by an order or decision made under this Act to do the thing.

Idem

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a decision or order requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person.

Order to
pay: contents

(3) An order under subsection (1) or (2) to pay costs shall include,

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and

- (c) a direction that the person to whom with the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. Idem

124f. At a hearing by the Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Board to amend the order by adding new items of cost or by increasing the amounts set out in the order. Costs specified in order to pay may be increased by Board

124g. At a hearing by the Board on an order under subsection 124e (1) to a person to pay the costs of doing things, the Board shall consider only whether any of the costs specified in the order, What Board may consider at hearing on subs. 124e (1) order to pay

- (a) do not relate to a thing that the person was required to do by an order or decision made under this Act, as amended by any Board decision or on any appeal from a Board decision; or

- (b) are unreasonable having regard to what was done.

124h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court. Order to pay may be enforced as judgment of the District Court

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order. Interest 1984, c. 11

124i.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on real property is a thing done in connection with that property, whether or not the work is done on that property. Interpretation

(2) If an order to pay costs is directed to a person who owns real property in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that property, the municipality shall have a lien on the property for those amounts and they shall be deemed to be municipal taxes in respect of the property and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes. Costs specified in order to pay may be collected as taxes

Idem
1984, c. 84
(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.

Idem
(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario.

Interpretation: cancellation price
(5) In subsections (6) and (7), “cancellation price” has the same meaning as in the *Municipal Tax Sales Act, 1984*.

Proceeds of tax sale
R.S.O. 1980, cc. 166, 361
(6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Fire Marshals Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.

Cancellation price
(7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Fire Marshals Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*.

Idem, territory without municipal organization
R.S.O. 1980, c. 399
(8) If an order to pay costs is directed to a person who owns real property in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to things done in connection with that property, the Crown shall have a lien on the property for those amounts and they shall be deemed to be taxes in respect of the property imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.

Idem
(9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the property.

Costs specified in order to pay may be recovered from deposit, financial assurance
124j. Where an order to pay costs is directed to a person who has given a deposit under section 34 or financial assurance under Part X-A, the deposit or financial assurance may be used to recover amounts specified in the order to pay.

13. Section 143 of the Act is repealed.

14. Subsection 146 (1a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 14, is amended by inserting after “Act” in the second line “other than an order under section 124e”.

Ontario Water Resources Act

15. The *Ontario Water Resources Act* is amended by adding the following sections: R.S.O. 1980,
c. 361

WORK DONE BY MINISTRY

48a.—(1) Where a direction, order or decision made under this Act is stayed, the Minister may cause to be done any thing required by the direction, order or decision. Minister may
cause things
to be done

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

48b.—(1) Where a direction, order or decision made by the Director or Minister under this Act is not stayed, the Director may cause to be done any thing required by it if, Director may
cause things
to be done

(a) a person required by the direction, order or decision to do the thing,

(i) has refused to comply with or is not complying with the direction, order or decision,

(ii) is not likely, in the Director's opinion, to comply with the direction, order or decision promptly,

(iii) is not likely, in the Director's opinion, to carry out the direction, order or decision competently, or

(iv) requests the assistance of the Director in complying with the direction, order or decision; or

(b) in the Director's opinion, it would be in the public interest to do so.

(2) Subsection (1) does not apply in respect of reports made under section 33. Exception

(3) The Director shall give notice of an intention to cause a thing to be done under this section to each person required by Notice of
intent to
cause things
to be done

a direction, order or decision made under this Act to do the thing.

Idem

(4) A person who receives a notice under subsection (3) shall not do the thing referred to in the notice without the permission of the Director.

Person liable
unknown:
Director may
cause things
to be done

48c. Where the Director is authorized by this Act to make a direction, order or decision requiring a person to do a thing and the identity of the person cannot be ascertained, the Director may cause the thing to be done.

Entry on
land without
judicial order

48d.—(1) A person who is responsible for doing a thing under section 48a, 48b or 48c may, for the purpose, enter on land on which the thing is to be done and on adjacent lands without a warrant if,

- (a) the entry is made with the consent of an occupier or owner of the land; or
- (b) the delay necessary to obtain a warrant under subsection (2) would result in,
 - (i) danger to the health or safety of any person,
 - (ii) impairment or serious risk of impairment of any waters or any use of waters, or
 - (iii) injury or damage or serious risk of injury or damage to any property or to any plant or animal life.

Warrant
authorizing
entry on land

(2) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry on certain land is necessary for the purpose of doing a thing under section 48a, 48b or 48c, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land.

Execution
and expiry of
warrant

(3) A warrant issued under subsection (2) shall,

- (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
- (b) state when the warrant expires.

Extension of
time

(4) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.

(5) A person authorized under clause (1) (b) or subsection (2) to enter on land for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing. Use of force

(6) A person named in a warrant issued under subsection (2) may call on any other persons he or she considers advisable to execute the warrant. Assistance

(7) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the land. Application without notice

(8) On the request of an owner or occupier of the land, a person who exercises a power conferred under subsection (1) or (2) shall identify himself or herself and shall explain the purpose of the entry. Identification

48e.—(1) The Director may issue an order to pay the costs of doing any thing caused to be done by the Minister or Director under this Act to any person required by a direction, order or decision made under this Act to do the thing. Order to pay

(2) If, after the Minister or Director causes any thing to be done under this Act, the Director ascertains the identity of a person to whom a direction, order or decision requiring the thing to be done could have been issued under this Act, the Director may issue an order to pay the costs of doing the thing to that person. Idem

(3) An order under subsection (1) or (2) to pay costs shall include, Order to pay: contents

- (a) a description of things that the Minister or Director caused to be done under this Act;
- (b) a detailed account of the costs incurred in doing the things; and
- (c) a direction that the person to whom the order is issued pay the costs to the Treasurer of Ontario.

(4) An order under subsection (2) to pay costs shall also include a brief statement of the circumstances giving rise to the decision to cause the things to be done. Idem

Costs specified in order to pay may be increased by Environmental Appeal Board
What Environmental Appeal Board may consider at hearing on subs. 48e (1) order to pay

48f. At a hearing by the Environmental Appeal Board on an order to pay costs, the Director may, on reasonable notice to all parties, ask the Environmental Appeal Board to amend the order by adding new items of cost or by increasing the amounts set out in the order.

48g. At a hearing by the Environmental Appeal Board on an order under subsection 48e (1) to a person to pay the costs of doing things, the Environmental Appeal Board shall consider only whether any of the costs specified in the order,

- (a) do not relate to a thing that the person was required to do by a direction, order or decision made under this Act, as amended by any Environmental Appeal Board decision or on any appeal from an Environmental Appeal Board decision; or
- (b) are unreasonable having regard to what was done.

Order to pay may be enforced as judgment of the District Court
Interest
1984, c. 11

48h.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court.

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

Interpretation

48i.—(1) For the purposes of subsections (2) and (8), a thing done as a result of activities or conditions on land is a thing done in connection with that land, whether or not the work is done on that land.

Costs specified in order to pay may be collected as taxes

(2) If an order to pay costs is directed to a person who owns land in a municipality, and the Director instructs the municipality to recover amounts specified in the order that relate to things done in connection with that land, the municipality shall have a lien on the land for those amounts and they shall be deemed to be municipal taxes in respect of the land and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

Idem

(3) A lien created under subsection (2) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.

1984, c. 84

(4) Subject to subsection (6), money collected in accordance with subsection (2), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario. Idem

(5) In subsections (6) and (7), “cancellation price” has the same meaning as in the *Municipal Tax Sales Act, 1984*. Interpretation:
cancellation price

(6) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Environmental Protection Act* or the *Fire Marshals Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land. Proceeds of tax sale
R.S.O. 1980,
c. 141, 166

(7) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Environmental Protection Act* and the *Fire Marshals Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*. Cancellation price

(8) If an order to pay costs is directed to a person who owns land in territory without municipal organization, and the Director instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to work done in connection with that land, the Crown shall have a lien on the land for those amounts and they shall be deemed to be taxes in respect of the land imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act. Idem.
territory without
municipal
organization
R.S.O. 1980,
c. 399

(9) An instruction under subsection (2) or (8) shall state which of the amounts specified in the order to pay relate to things done in connection with the land. Idem

48j. Where an order to pay costs is directed to a person who has given financial assurance under Part X-A of the *Environmental Protection Act*, the financial assurance may be used to recover amounts specified in the order to pay. Costs
specified in
order to pay
may be
recovered
from
financial
assurance
R.S.O. 1980,
c. 141

16. Section 55 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 88, is repealed.

17. Subsection 66 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41 and amended by 1988,

chapter 54, section 88, is further amended by inserting after “Act” in the third line “other than an order under section 48e”.

PART III

MISCELLANEOUS

Environmental Protection Act

R.S.O. 1980,
c. 141

18. Subsection 6 (1) of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1986, chapter 68, section 3 and 1988, chapter 54, section 3, is repealed and the following substituted:

Control
orders

(1) When the report of a provincial officer contains a finding that a contaminant discharged into the natural environment is a contaminant the use of which is prohibited by the regulations or is being discharged in contravention of section 13 or the regulations, the Director may issue a control order directed to,

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

19. Subsection 7 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 4, is further amended by striking out “the person responsible for the source of contaminant” at the end and by adding the following clauses:

- (a) an owner or previous owner of the source of contaminant;
- (b) a person who is or was in occupation of the source of contaminant; or
- (c) a person who has or had the charge, management or control of the source of contaminant.

20. Section 16 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 12, is repealed and the following substituted:

16. Where any person causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered, the Director may order the person to,

Remedial
orders

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide alternate water supplies.

21. Subsection 17 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 52, section 6 and amended by 1988, chapter 54, section 13, is further amended by striking out “or who has” in the third line and substituting “or owned or who has or had”.

22. Subsection 41 (1) of the Act is amended by striking out “the occupant or the person having” in the fourth line and substituting “an owner or previous owner, an occupant or previous occupant or a person who has or had”.

23. Section 42 of the Act is amended by striking out “the owner” in the third line and substituting “an owner or previous owner”.

24. The Act is amended by adding the following section:

120a. When the Director makes an order or decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the order or decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the order or decision requires something to be done, permits something to be done or prohibits something from being done.

Notice to
municipalities

25. The Act is further amended by renumbering section 122a, as enacted by the Statutes of Ontario, 1983, chapter 52, section 18, as section 122b and by adding the following section:

122a. The Board shall extend the time in which a person may give a notice under section 121 or 122 requiring a hearing on an order or decision where, in the Board’s opinion, it is just to do so because service of the order or decision on the person did not give the person notice of the order or decision.

Extension of
time for
requiring
hearing

26. Subsection 136 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 52, section 23 and 1988, chapter 54, section 45, is further amended by adding the following clauses:

- (r) providing for the method of service of any document or class of documents given or served under this Act;
- (s) prescribing any matter referred to in this Act as prescribed.

27.—(1) Subsection 142 (1) of the Act is repealed and the following substituted:

Service

(1) Any document given or served under this Act or the regulations is sufficiently given or served if it is,

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations respecting service.

(2) Subsection 142 (2) of the Act is amended by striking out “registered” in the first line.

28. Subsection 146a (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 15 and amended by 1989, chapter 72, section 32, is repealed and the following substituted:

Penalty re
actual
pollution

(1) Every corporation convicted of a contravention of subsection 13 (1) or 119 (1) is liable on conviction for each day or part of a day on which the offence occurs or continues to a fine of not less than \$2,000 and not more than \$200,000 on a first conviction and not less than \$4,000 and not more than \$400,000 on each subsequent conviction and not as provided in section 146.

29. Subsections 147 (3) and (4) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 68, section 16 and amended by 1988, chapter 54, section 49 and 1989, chapter 72, section 32, are repealed and the following substituted:

(3) Where a natural person is convicted of an offence referred to in subsection (1) that results in an adverse effect, the person is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$50,000 on a first conviction and not less than \$4,000 and not more than \$100,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Penalty
where
adverse effect
occurs

(4) Where a corporation is convicted of an offence referred to in subsection (1) that results in an adverse effect, the corporation is liable, for each day on which the offence occurs or continues, to a fine of not less than \$2,000 and not more than \$1,000,000 on a first conviction and not less than \$4,000 and not more than \$2,000,000 on each subsequent conviction, instead of the fine elsewhere provided for the offence.

Idem,
corporation

30. Section 148 of the Act, as enacted by the Statutes of Ontario, 1981, chapter 49, section 5, is repealed and the following substituted:

148.—(1) Proceedings for an offence under this Act or the regulations shall not be commenced later than two years after the later of,

Limitation

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section.

Idem

31. Section 149 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 52, section 25, is amended by adding the following subsection:

(2) A person who has authority under this Act to order that a thing be done on or in any place also has authority to order any person who owns, occupies or has the charge, management or control of the place to permit access to the place for the purpose of doing the thing.

Idem

32. The Act is further amended by adding the following section:

150.—(1) A person who has authority under this Act to make an order or decision affecting real property also has authority to prohibit any person with an interest in the prop-

Certain
dealings with
real property
prohibited

erty from dealing with the property in any way without first giving a copy of the order or decision to each person acquiring an interest in the property as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the real property.

Prohibited
dealings
voidable

(4) A dealing with real property by a person who is prohibited under subsection (1) or (3) from dealing with the property without giving a copy of an order or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the property as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the real property to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the property.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

Ontario Water Resources Act

R.S.O. 1980,
c. 361

33. Subsection 44 (1) of the *Ontario Water Resources Act*, as amended by the Statutes of Ontario, 1981, chapter 50, section 2, 1983, chapter 51, section 3, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is further amended by adding the following clauses:

- (ta) providing for the method of service of any document or class of document given or served under this Act;

- (tb) prescribing any matter referred to in this Act as prescribed.

34. Section 54 of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 50, section 3, is repealed and the following substituted:

54.—(1) Proceedings for an offence under this Act or the regulations made under this Act shall not be commenced later than two years after the later of, Limitations

- (a) the day on which the offence was committed; and
- (b) the day on which evidence of the offence first came to the attention of a person appointed under section 4.

(2) Clause (1) (b) does not apply in respect of offences committed more than two years before the coming into force of this section. Idem

35. Section 61 of the Act, as amended by the Statutes of Ontario, 1988, chapter 54, section 81, is further amended by adding the following subsections:

(2c) The Environmental Appeal Board shall extend the time in which a person may give a notice under subsection (2a) requiring a hearing on a notice, direction, report, order or other decision where, in the opinion of the Environmental Appeal Board, it is just to do so because service of the notice referred to in subsection (2) did not give the person notice of the decision. Extension of time for requiring hearing

(2d) When the Director makes a notice, direction, report, order or other decision under this Act of a class prescribed by the regulations, the Director shall serve notice of the notice, direction, report, order or other decision, together with written reasons therefor, on the clerk of any local municipality in which there is land on which the notice, direction, report, order or other decision requires something to be done, permits something to be done or prohibits something from being done. Notice to municipalities

36. The Act is amended by adding the following section:

64a.—(1) A person who has authority under this Act to make a direction, order, notice or decision affecting land also has authority to prohibit any person with an interest in the land from dealing with the land in any way without first giving Certain dealings with land prohibited

a copy of the direction, order, notice or decision to each person acquiring an interest in the land as a result of the dealing.

Registration
of
prohibitions

(2) A certificate setting out a prohibition referred to in subsection (1) may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem

(3) A prohibition set out in a certificate that is registered under subsection (2) is, from the time of registration, deemed to be directed to each person who subsequently acquires an interest in the land.

Prohibited
dealings with
land voidable

(4) A dealing with land by a person who is prohibited under subsection (1) or (3) from dealing with the land without giving a copy of a direction, order, notice or decision is voidable at the instance of a person who was not given the copy before acquiring an interest in the land as a result of the dealing.

Registration
of withdrawal
of prohibition

(5) A certificate of withdrawal of a prohibition referred to in this section may be registered in the proper land registry office on the title of the land to which the prohibition relates, if the certificate is in the prescribed form, is signed by the Director and is accompanied by a registrable description of the land.

Idem
R.S.O. 1980,
c. 445

(6) On the registration under the *Registry Act* of a certificate of withdrawal of a prohibition in accordance with subsection (5), the land registrar may delete the entries in the abstract index of the certificate setting out the prohibition and the certificate of withdrawal of the prohibition.

Idem

(7) Registration of a certificate of withdrawal of a prohibition in accordance with subsection (5) has the effect of revoking the prohibition.

37. Section 65 of the Act, as enacted by the Statutes of Ontario, 1983, chapter 51, section 7, is amended by adding the following subsection:

Idem

(3) A person who has authority under this Act to make an order requiring that a thing be done on land also has authority to make an order requiring any person who owns, occupies or has the charge, management or control of the land to permit access to the land for the purpose of doing the thing.

38.—(1) Subsection 65b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is repealed and the following substituted:

(1) Any document given or served under this Act or the regulations made under this Act is sufficiently given or served if it is, Service

- (a) delivered personally;
- (b) sent by mail addressed to the person to whom delivery or service is required to be made at the latest address for the person appearing on the records of the Ministry; or
- (c) given or served in accordance with regulations made under this Act respecting service.

(2) Subsection 65b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 54, section 82, is amended by striking out “registered” in the first line.

39. This Act comes into force on the day it receives Royal Assent. Commence-
ment

40. The short title of this Act is the *Environmental Protection Statute Law Amendment Act, 1990*. Short title

Government
Publications

Bill 221



An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act

The Hon. S. Conway
Minister of Education

1st Reading June 14th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Education Act

1. The provisions relating to pupil records are amended to comply with freedom of information legislation by authorizing the collection of information to be included in pupil records and by authorizing the release of certain information to the local medical officer of health.
2. The Minister is authorized to establish and operate a plan under which capital projects are approved for the construction of school sites and of child care facilities and to give legislative grants for approved projects.
3. Boards are empowered to construct and renovate child care facilities and to include the amounts required for that construction and renovation in their estimates.
4. Demonstration schools are authorized to provide special education programs and services, in a residential or non-residential setting, for exceptional pupils with learning disabilities or hearing or visual impairments.
5. The Minister is authorized to enter into licence agreements to obtain the right for school boards to copy works protected by copyright and covered by the licence agreement.
6. Public boards and Roman Catholic school boards are permitted to share sick leave gratuities for designated teachers in a ratio agreed upon by the boards.

Education Act and Municipality of Metropolitan Toronto Act

7. The provisions dealing with financial matters are amended to eliminate the distinction between public and secondary school purposes in the preparation of estimates, the establishment of mill rates and the apportionment of sums required to be raised for school purposes for those boards of education and extended separate school boards in which the public school and secondary school ratepayers are the same.

Bill 221

1990

An Act to amend the Education Act and the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Education Act

1.—(1) Subsection 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

R.S.O. 1980,
c. 129

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
 - (i) extend the rights under the licence agreement to boards,
 - (ii) require boards to comply with the terms of the licence agreement, and
 - (iii) require boards to pay their share of the fees under the licence agreement.

copyright
licence
agreements

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clauses:

- (zh) establish, maintain and operate a plan under which the Minister reviews and approves projects submitted by boards for the construction, renovation, replacement and disposal of school sites and for the construction of child care facilities in schools;

capital grant
plan

capital
allocations

- (zi) make allocations in respect of the construction, renovation, replacement and disposal of school sites and for the construction of child care facilities in schools.

2.—(1) Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of moneys appropriated or raised by the Legislature for the construction of child care facilities in schools.

(2) Clause 10 (3) (j) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 2, is repealed and the following substituted:

- (j) providing for payments to a board for the purpose of limiting in a year the amount of the requisition for public or secondary school purposes or, for a board described in subsection 229a (1), the amount of the requisition for school purposes or, for a separate school board, the increase in the mill rate for separate school purposes, in respect of,
 - (i) the whole or part of a municipality under the jurisdiction of the board, or
 - (ii) a part of territory without municipal organization that is deemed to be a district municipality under the jurisdiction of the board.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

Idem

- (4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4. Section 53 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 14, 1984, chapter 48, section 21 and 1988, chapter 27, section 3, is further amended by adding the following subsection:

Application
of subss. (1)
and (2)

- (2b) If the divisional board referred to in subsection (1) or (2) is a board described in subsection 229a (1), the expenses incurred by the board shall be apportioned to the property

rateable for school purposes and shall be included in the levy imposed for school purposes on the property.

5. Subsection 127 (1) of the Act is repealed and the following substituted:

(1) Every separate school board shall prepare and adopt estimates of all sums required during the year for separate school purposes and,

- (a) in the case of a separate school board that is not a Roman Catholic school board, the provisions of section 209 in respect of the preparation and adoption of estimates of all sums for public school purposes by a divisional board apply with necessary modifications; and
- (b) in the case of a Roman Catholic school board, the provisions of section 209, as modified by section 229a, in respect of the preparation and adoption of the estimates of all sums required for school purposes by a divisional board apply with necessary modifications.

6. Section 136k of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed.

7. Section 136-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsection:

(20a) Notwithstanding subsection (20), the public board and the Roman Catholic school board may agree to share the amount of the payment under subsection (18) or (19) in any manner, including the payment of the entire amount by either board.

8. Subsection 136n (6) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out “secondary” in the third line and in the fourth line.

9.—(1) Paragraph 20 of subsection 150 (1) of the Act is amended by inserting after “and” in the seventh line “in the case of a board other than a board described in subsection 229a (1)”.

(2) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

child care
facilities

47. construct and renovate child care facilities in any school.

(3) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

Child care
facilities

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1),

- (a) in an elementary school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

10. Subsection 169 (3) of the Act is amended by inserting after “but” in the third line “in the case of a board other than a board described in subsection 229a (1)”.

11. The Act is amended by adding the following section:

Where no
distinction is
made
between
public and
secondary

229a.—(1) Notwithstanding anything in this Part, no distinctions shall be made between public schools and secondary schools, between public school purposes and secondary school purposes or between public school rates and secondary school rates where a provision in this Part otherwise applies to,

- (a) a Roman Catholic school board;
- (b) a board of education in The Municipality of Metropolitan Toronto;
- (c) a board appointed by the Minister under section 70; or
- (d) a divisional board, none of the members of which are elected by or appointed to represent separate school electors.

Idem

(2) Without limiting the generality of subsection (1), the limitation under clause 209 (1) (d) for a board described in subsection (1) shall be based on an amount calculated at two mills in the dollar upon the total of the equalized assessments of the municipalities and localities in the school division.

Exception

(3) Subsection 209 (3) does not apply to a board described in subsection (1).

12. Clause 236 (d) of the Act is repealed and the following substituted:

- (d) in accordance with this Act, the regulations and the pupil records guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

13.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

(1) In this section, except in subsection (12), “record”, in Definition respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

- (a) subject to subsections (2a), (3) and (5), is not available to any other person; and

.

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is further amended by adding the following subsection:

(2a) The principal of a school shall, upon request by the Information to medical officer of health medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

Municipality of Metropolitan Toronto Act

14. Clause 116 (1) (d) of the *Municipality of Metropolitan Toronto Act* is amended by striking out “for, and do not pay, taxes for secondary school purposes or public school purposes, respectively” in the twelfth, thirteenth and fourteenth lines and substituting “for school purposes”. R.S.O. 1980, c. 314

15.—(1) Clause 127 (1) (g) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 30, is further

amended by striking out “separately for public elementary and for secondary school purposes” in the fifth and sixth lines and substituting “for school purposes”.

(2) Subclause 127 (1) (g)(v) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 1, section 30, is repealed and the following substituted:

R.S.O. 1980,
c. 129

- (v) may provide for expenditures for permanent improvements, as defined in paragraph 34 of subsection 1 (1) of the *Education Act*, and for an allocation to a reserve fund, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii and iii of paragraph 34 of subsection 1 (1) of that Act and any sum allocated to a reserve fund do not exceed, for school purposes, an amount that would increase the sum that would be required to be raised by levy for school purposes in the Metropolitan Area if no such provision for expenditures and allocation were made, by an amount calculated at two mills in the dollar upon the total equalized assessments of the area municipalities for school purposes, according to the last revised assessment rolls.

(3) Subsection 127 (3) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted:

Apportion-
ment by
School Board

- (3) When the School Board submits its estimates for school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

(4) Subsection 127 (4) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 10, section 1, is repealed and the following substituted:

Reduction of
apportionment

- (4) Where the estimates for school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall reduce the apportionment for school purposes to the area municipality in which the board of education has jurisdiction in an amount computed in accordance with subsection (4a).

(5) Paragraphs 1 and 2 of subsection 127 (4a) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 10, section 1, are repealed and the following substituted:

1. Compute for the preceding year the proportion that the total rateable property for school purposes in the area municipality was of the total rateable property in relation to the Metropolitan Area.
2. Compute in respect of the preceding year the proportion that the estimates of the board of education approved by the School Board for school purposes was of the aggregate of the estimates of all of the boards of education approved by the School Board.

(6) Subsections 127 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, are repealed and the following substituted:

(5) Where the estimates for school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for school purposes to the area municipality in which the board of education has jurisdiction by an amount that does not exceed the amount of the deficit and, in determining the amount of the increase in the apportionment, the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of
apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for school purposes, the School Board shall remove from the amount of its estimates submitted for school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for school purposes in the proportion that the total rateable property for school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for school purposes and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Calculation
of
apportionment

16.—(1) Clause 130j (2) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 10, section 2, is repealed and the following substituted:

- (b) does not exceed the aggregate of the amounts that are required to be transferred to the board of education under section 133 by the council of the area municipality in which the board of education has jurisdiction and by the School Board.

(2) Subsection 130j (3) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed and the following substituted:

Limitation

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5), the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced by the amount, if any, by which the apportionment was increased under subsection 127 (5).

(3) Subsections 130j (4) and (5) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8 and amended by 1984, chapter 10, section 2, are repealed and the following substituted:

Termination
of teachers'
employment

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b), the board of education,

- (a) shall not continue the employment of the additional teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional teachers in the year in which the apportionment is increased.

(4) Subsection 130j (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed.

17.—(1) Subsection 133 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 9, is further amended by striking out “separately for public elementary and for secondary school purposes” in the sixth and seventh lines.

(2) Subsection 133 (4) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 10, section 3, is repealed and the following substituted:

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which the board of education has jurisdiction the estimates of the board of education that were submitted to the School Board as adjusted in accordance with subsections (4a) and (4b) and a requisition of the amount of the estimates for school purposes required to be raised by the council.

Estimates to
council of
area municipality

(3) Subsections 133 (4a) and (4b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 10, section 3, are repealed and the following substituted:

(4a) The estimates mentioned in subsection (4) shall be adjusted as follows:

Adjustment
of estimates

1. The board of education shall adjust the estimates to include and to make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board.
2. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by two and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the Metropolitan Area for school purposes, and
 - iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for school purposes.

(4b) The estimates, as adjusted under subsection (4a), shall be further adjusted as follows:

Further
adjustment

1. The board of education shall divide the amount that, having regard for the computations required by subsection (4a), the board of education determines is necessary for its purposes by the amount of the estimates of the board of education that have been approved by the School Board as adjusted in accordance with subsection (4a), but excluding the adjustment in subparagraph iii of paragraph 2 of subsection (4a).
2. The board of education shall multiply the quotient obtained under paragraph 1 by two and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for school purposes.

(4) Subsection 133 (5) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 10, section 3, is repealed and the following substituted:

Local levy

(5) The council of an area municipality shall levy and collect each year the moneys requisitioned for the year for school purposes in accordance with subsection (4) by the board of education that has jurisdiction in the area municipality.

(5) Subsection 133 (6) of the Act is repealed and the following substituted:

Idem

(6) The amount required to be raised by the council of each area municipality under subsection (5) for school purposes shall be raised by levy upon all property rateable for school purposes within the area municipality according to the last revised assessment roll.

18. Section 133a of the Act, as enacted by the Statutes of Ontario, 1984, chapter 10, section 4, is repealed.

19. Subsections 133b (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 10, section 4, are repealed and the following substituted:

School purposes

(5) Moneys levied and collected upon requisitions for school purposes shall be applied under subsection (1) in respect of school purposes.

20. Subsection 134 (3) of the Act is repealed and the following substituted:

Debenture deemed to be for school purposes

(3) On and after the 1st day of January, 1991, any outstanding debenture issued for public or secondary school pur-

poses shall be deemed to have been issued for school purposes.

21. Section 136 of the Act is amended by adding the following subsection:

(2) All amounts of principal and interest becoming due on and after the 1st day of January, 1991 with respect to any debentures issued for school purposes by the Metropolitan Corporation shall be repaid by levies against all the area municipalities. Idem

22. Subsection 137 (3) of the Act is repealed and the following substituted:

(3) The School Board shall use the proceeds of the disposal of property paid to it under subsection (2) only for permanent improvements for school purposes. Use of proceeds

23. Section 138 of the Act is repealed and the following substituted:

138. A board of education with the approval of the School Board may transfer property that was acquired for public school purposes to secondary school purposes and *vice versa*. Transfer of school property

24.—(1) Subsections 219 (3) and (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 10, are repealed and the following substituted:

(3) The amount levied under subsection (1) for school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. School purposes

(2) Subsection 219 (12) of the Act is amended by striking out “public school purposes, secondary” in the sixth line.

(3) Subsection 219 (13) of the Act is repealed and the following substituted:

(13) Subject to subsections 36 (4), (5) and (6) of the *Assessment Act*, in each area municipality, the metropolitan levy, Local levies for metropolitan purposes
R.S.O. 1980, c. 31

- (a) for school purposes, shall be calculated and levied upon all property rateable for school purposes within such area municipality according to the last revised assessment roll; and

- (b) for all other purposes, shall be calculated and levied upon all property rateable for such purposes within such area municipality according to the last revised assessment roll.

Commence-
ment

25.—(1) Section 1, subsection 2 (1), section 3, subsections 9 (2) and (3) and sections 12, 13, 25 and 26 come into force on the day this Act receives Royal Assent.

Idem

(2) Subsection 2 (2), sections 4, 5, 6 and 8, subsection 9 (1) and sections 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 come into force on the 1st day of January, 1991.

Idem

(3) Section 7 is deemed to have come into force on the 1st day of January, 1989.

Short title

26. The short title of this Act is the *Education Statute Law Amendment Act, 1990*.

Bill 222

An Act to amend the Ottawa-Carleton French-Language School Board Act, 1988

The Hon. S. Conway
Minister of Education

1st Reading June 14th, 1990
2nd Reading
3rd Reading
Royal Assent

Projet de loi 222

Loi portant modification de la Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton

L'honorable S. Conway
ministre de l'Éducation

1^{re} lecture 14 juin 1990
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The purpose of the Bill is to facilitate financial reporting for The Ottawa-Carleton French-language School Board. Since the board through its sectors provides both elementary and secondary education, the board and the sectors will prepare and adopt estimates of sums required for all school purposes together, without any distinction between elementary and secondary school purposes.

NOTE EXPLICATIVE

Le projet de loi a pour objet de faciliter au Conseil scolaire de langue française d'Ottawa-Carleton la communication de son information financière. Étant donné que le conseil, par l'entremise de ses sections, offre l'enseignement à la fois au palier élémentaire et au palier secondaire, le conseil et les sections prépareront et adopteront les prévisions des sommes nécessaires à toutes les fins des écoles réunies, sans distinguer entre celles des écoles élémentaires et celles des écoles secondaires.

Bill 222

1990

**An Act to amend the Ottawa-Carleton
French-Language School Board Act, 1988**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1988, c. 47

**1.—(1) Subsection 39 (1) of the *Ottawa-Carleton French-
Language School Board Act, 1988*, exclusive of the clauses, is
repealed and the following substituted:**

Estimates,
full board

(1) The full board in each year shall prepare and adopt esti-
mates of all sums required in its area of jurisdiction during the
year for school purposes, and such estimates,

.

(2) Subsection 39 (4) of the Act is repealed.

**(3) Subsection 39 (6) of the Act is amended by adding at the
end “described in subsection 229a (1) of that Act”.**

**(4) Subsection 39 (7) of the Act is repealed and the following
substituted:**

Estimates,
Roman
Catholic
sector

(7) Section 127 of the *Education Act* applies with necessary
modifications to the Roman Catholic sector.

R.S.O. 1980,
c. 129

**(5) Subsection 39 (8) of the Act is amended by striking out
“elementary and secondary” in the third line.**

**(6) Clauses 39 (12) (a) and (b) of the Act are repealed and
the following substituted:**

(a) a statement indicating the amount of its estimates
for school purposes to be raised by each council;
and

Projet de loi 222**1990****Loi portant modification de la Loi de 1988 sur le
Conseil scolaire de langue française
d'Ottawa-Carleton**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) Le paragraphe 39 (1), à part les alinéas, de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton*, est abrogé et remplacé par ce qui suit :

(1) Chaque année, le conseil plénier prépare et adopte les prévisions des sommes nécessaires dans son domaine de compétence au cours de l'année aux fins des écoles. Ces prévisions :

1988, chap. 47
Prévisions,
conseil plénier

(2) Le paragraphe 39 (4) de la Loi est abrogé.

(3) Le paragraphe 39 (6) de la Loi est modifié par adjonction des mots «visé au paragraphe 229a (1) de cette loi» à la fin.

(4) Le paragraphe 39 (7) de la Loi est abrogé et remplacé par ce qui suit :

(7) L'article 127 de la *Loi sur l'éducation* s'applique, avec les adaptations nécessaires, à la section catholique.

Prévisions,
section catho-
lique
L.R.O. 1980,
chap. 129

(5) Le paragraphe 39 (8) de la Loi est modifié par suppression des mots «élémentaires et secondaires» aux troisième et quatrième lignes.

(6) Les alinéas 39 (12) a) et b) de la Loi sont abrogés et remplacés par ce qui suit :

- a) un état indiquant le montant de ses prévisions aux fins des écoles que chaque conseil doit recueillir;

- (b) a requisition of the amount of the estimates for school purposes required to be raised by the council.

(7) Subsection 39 (13) of the Act is amended by adding at the end “described in subsection 229a (1) of that Act”.

Commence-
ment

2. This Act comes into force on the 1st day of January, 1991.

Short title

3. The short title of this Act is the *Ottawa-Carleton French-Language School Board Amendment Act, 1990*.

- b) une demande du montant des prévisions aux fins des écoles que le conseil doit recueillir.

(7) Le paragraphe 39 (13) de la Loi est modifié par adjonction des mots «visé au paragraphe 229a (1) de cette loi» à la fin.

2 La présente loi entre en vigueur le 1^{er} janvier 1991.

Entrée en
vigueur

3 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton*.

Titre abrégé

Bill 223

**An Act to provide
Compensation for
Damage to Livestock,
Poultry and Bees**

The Hon. D. Ramsay
*Minister of
Agriculture and Food*

1st Reading June 14th, 1990
2nd Reading
3rd Reading
Royal Assent

~~Government
Publications~~



Projet de loi 223

**Loi prévoyant
l'indemnisation en cas de
dommages causés à du bétail,
à des volailles et à des abeilles**

L'honorable D. Ramsay
*ministre de
l'Agriculture et de l'Alimentation*

1^{re} lecture 14 juin 1990
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill replaces and updates the provisions of the *Dog Licensing and Live Stock and Poultry Protection Act* that deal with compensation paid for damage to livestock, poultry and bees.

The main changes effected by the Bill are as follows:

1. A director appointed by the Minister of Agriculture and Food takes the place of the Live Stock Commissioner.
2. The Bill restricts the class of offences in the former Act to one, failure by owner of a dog to destroy it where he or she is under a duty to do so, and adds one other, knowingly making a false statement in connection with an application for compensation. The Bill increases the penalty for offences to a maximum fine of \$2,000 from \$50.
3. The Bill deletes the right under clause 9 (b) of the former Act to kill a dog that is found straying.
4. The Bill allows for compensation to be paid to an owner of livestock or poultry for damage caused by other predators, in addition to damage caused by wolves.
5. The local municipality or the director, as the case may be, may refuse to pay compensation if the owner has destroyed evidence of the damage before receiving the written permission of a valuer.
6. The Bill allows an owner of livestock or poultry that is damaged to request a further investigation and supplementary report within six months of the time at which the damage was caused.
7. The Farm Products Appeal Tribunal replaces the Wolf Damage Assessment Board for the purpose of the Bill. The local municipality is required to file claims with the director only in cases where it is applying for reimbursement. The local municipality may appeal to the Tribunal if the director refuses to make reimbursement on the basis that the damage was not caused by a predator.
8. The Bill adopts a similar scheme of notification by an owner, a report by a valuer and payment of compensation by the director in the case of damage caused to a colony of bees or hive equipment, as in the case of damage caused to livestock or poultry. There is no right to a further investigation and supplementary report by a valuer.

NOTES EXPLICATIVES

Le présent projet de loi a pour objet de remplacer et de mettre à jour les dispositions de la loi intitulée *Dog Licensing and Live Stock and Poultry Protection Act* qui traitent de l'indemnisation en cas de dommages causés à du bétail, des volailles et des abeilles.

Les principaux changements introduits par le projet de loi sont les suivants :

1. Un directeur nommé par le ministre de l'Agriculture et de l'Alimentation remplace le commissaire au bétail.
2. Le projet de loi restreint la catégorie d'infractions prévues par l'ancienne loi à une seule infraction, soit le fait pour le propriétaire d'un chien de ne pas abattre son chien lorsqu'il est dans l'obligation de ce faire, et en introduit une autre, soit le fait de faire sciemment une fausse déclaration relativement à une demande d'indemnisation. Le projet de loi fait passer l'amende maximale prévue pour les infractions de 50 \$ à 2 000 \$.
3. Le projet de loi supprime le droit de tuer un chien trouvé errant, qui était prévu par l'alinéa 9 b) de l'ancienne loi.
4. Le projet de loi prévoit le versement d'une indemnité aux propriétaires de bétail ou de volailles pour les dommages causés par d'autres prédateurs, en plus de ceux causés par les loups.
5. La municipalité locale ou le directeur, selon le cas, peut refuser de verser une indemnité si le propriétaire a détruit les preuves des dommages avant d'avoir reçu l'autorisation écrite d'un évaluateur.
6. Le projet de loi autorise les propriétaires de bétail ou de volailles qui ont subi des dommages à demander la tenue d'une nouvelle enquête et la préparation d'un rapport supplémentaire dans les six mois de la date à laquelle les dommages ont été causés.
7. La Commission d'appel pour les produits agricoles remplace, pour l'application du projet de loi, la Commission d'évaluation des dommages causés par les loups. La municipalité locale n'est tenue de déposer des réclamations auprès du directeur que si elle présente une demande de remboursement. Elle peut interjeter appel devant la Commission si le directeur refuse d'effectuer un remboursement en raison du fait que les dommages n'ont pas été causés par un prédateur.
8. Le projet de loi introduit, dans le cas de dommages causés à une colonie d'abeilles ou à du matériel apicole, des dispositions semblables à celles qui s'appliquent dans le cas de dommages causés à du bétail ou à des volailles, quant à la notification par le propriétaire, la rédaction d'un rapport d'évaluateur et l'indemnisation par le directeur. Le droit à une nouvelle enquête et à un rapport supplémentaire d'un évaluateur n'est toutefois pas prévu.

Bill 223**1990**

**An Act to provide Compensation for
Damage to Livestock, Poultry and Bees**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“bees” means the insects known as *Apis mellifera*; (“abeilles”)

“director” means the director appointed under this Act; (“directeur”)

Projet de loi 223

1990

**Loi prévoyant l'indemnisation en cas de dommages
causés à du bétail, à des volailles et à des abeilles**

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**DOMMAGES CAUSÉS DANS UN
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26. Entrée en vigueur
27. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«abeilles» Les insectes du genre *Apis mellifera*. («bees»)

“injury”, in respect of livestock or poultry, includes an injury caused by wounding, worrying or pursuing or related to stress, and “injure” has a corresponding meaning; (“blesure”, “blesser”)

R.S.O. 1980,
c. 181

“livestock” means cattle, goats, horses, rabbits, sheep, swine or animals designated as fur-bearing animals in the *Fur Farms Act* or declared to be fur-bearing animals in the regulations made under that Act; (“bétail”)

“owner”, in relation to a dog, includes a person who possesses or harbours the dog, and “own” has a corresponding meaning; (“propriétaire”)

R.S.O. 1980,
c. 182

“poultry” includes game birds kept pursuant to a licence under the *Game and Fish Act*; (“volaille”)

“predator” means a wolf, fox, coyote, coy-dog, bear, corvid or other predator designated in the regulations. (“prédateur”)

Director
appointed

2. The Minister of Agriculture and Food may appoint a director for the purposes of this Act.

PART I

LIVESTOCK AND POULTRY

Exception

3. No compensation is payable under this Act in respect of,

- (a) livestock or poultry killed or injured while running at large upon a highway or unenclosed land;
- (b) poultry weighing in total less than twenty-five kilograms that is killed or injured; or
- (c) livestock or poultry killed or injured by a dog owned by the owner of the livestock or poultry or habitually kept upon the premises of that owner.

Duty to
destroy dog

4.—(1) If the owner of a dog has knowledge that the dog has killed or injured livestock or poultry not owned by him or

«bétail» Bovins, chèvres, chevaux, lapins, ovins, porcins ou animaux désignés comme animaux à fourrure dans la *Loi sur les fermes d'élevage d'animaux à fourrure* ou désignés comme tels dans les règlements pris en application de cette loi. («livestock»)

L.R.O. 1980,
chap. 181

«blessure» En ce qui concerne le bétail ou la volaille, s'entend notamment d'une blessure causée soit par un trauma, soit par le fait de harceler ou de poursuivre, ou d'une blessure liée au stress. Le terme «blesser» a un sens correspondant. («injury», «injure»)

«directeur» Le directeur nommé en vertu de la présente loi. («director»)

«prédateur» Loup, renard, coyote, coyo-chien, ours, le corvidé ou tout autre prédateur ainsi désigné dans les règlements. («predator»)

«propriétaire» Relativement à un chien, s'entend notamment d'une personne qui le possède ou l'héberge. («owner»)

«volaille» S'entend en outre du gibier à plumes gardé en vertu d'un permis délivré en vertu de la *Loi sur la chasse et la pêche*. («poultry»)

L.R.O. 1980,
chap. 182

2 Le ministre de l'Agriculture et de l'Alimentation peut nommer un directeur pour l'application de la présente loi.

Nomination
d'un directeur

PARTIE I

BÉTAIL ET VOLAILLES

3 Aucune indemnité ne peut être versée aux termes de la présente loi à l'égard :

Exception

- a) de bétail ou de volailles errants qui sont tués ou blessés sur une voie publique ou un terrain non clôturé;
- b) de volailles tuées ou blessées, si leur poids total est inférieur à vingt-cinq kilogrammes;
- c) de bétail ou de volailles tués ou blessés par un chien dont est propriétaire le propriétaire du bétail ou des volailles ou qui est habituellement gardé sur des lieux appartenant à ce propriétaire.

4 (1) Le propriétaire d'un chien qui a connaissance que son chien a tué ou blessé du bétail ou des volailles dont il

Obligation
d'abattre son
chien

her, the owner shall destroy the dog within forty-eight hours after acquiring that knowledge.

Failure to
destroy dog

(2) If the owner of a dog refuses or neglects to destroy it when required so to do by subsection (1), a provincial judge may, upon the application of the owner of livestock or poultry that is killed or injured by the dog,

(a) order that the dog be destroyed; and

(b) in addition to any other penalty provided by this Act, order the owner of the dog to pay the cost of the proceedings and of the destruction of the dog.

Warrant for
entry

(3) If a justice of the peace is satisfied on information upon oath that there is reasonable ground to believe that a person has denied entry to a place to a police officer who was seeking to carry out an order under clause (2) (a), the justice of the peace may issue a warrant authorizing such entry by the police officer named in the warrant.

Offence

(4) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Right to
destroy dog

(5) A person may destroy a dog,

(a) that he or she finds killing or injuring livestock or poultry; or

(b) that he or she finds not under proper control on premises where livestock or poultry are habitually kept.

No deemed
right of entry

(6) Subsection (5) does not confer on a person a right of entry upon land that the person does not otherwise have.

DAMAGE CAUSED IN A LOCAL MUNICIPALITY

Payment by
local municipi-
pality for
damage by
wild animal

5.—(1) The council of a local municipality may pass a by-law providing that if a wild animal, other than a predator, kills or injures livestock or poultry in the municipality, the municipality shall pay to the owner of the livestock or poultry the amount of compensation determined under the by-law.

Contents of
by-law

(2) The by-law may,

n'est pas propriétaire doit l'abattre dans les quarante-huit heures après qu'il a appris ce fait.

(2) Si le propriétaire d'un chien refuse ou néglige d'abattre son chien comme l'exige le paragraphe (1), un juge provincial peut, à la requête du propriétaire du bétail ou des volailles qui ont été tués ou blessés par le chien :

Défaut d'abattre son chien

- a) ordonner que le chien soit abattu;
- b) en plus d'imposer toute autre peine prévue par la présente loi, ordonner au propriétaire du chien d'acquitter les frais afférents à l'instance et à l'abattage du chien.

(3) Le juge de paix qui est convaincu, sur la foi d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables de croire qu'un agent de police voulant exécuter un ordre donné en vertu de l'alinéa (2) a) s'est vu refuser l'accès à un endroit peut décerner un mandat autorisant l'agent de police qui y est nommé à pénétrer dans cet endroit.

Mandat pour pénétrer dans un endroit

(4) Quiconque contrevient au paragraphe (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$.

Infraction

(5) Une personne peut abattre un chien :

Droit d'abattre un chien

- a) qu'elle trouve en train de tuer ou de blesser du bétail ou des volailles;
- b) qu'elle trouve non tenu sous bonne garde sur les lieux où sont habituellement gardés du bétail ou des volailles.

(6) Le paragraphe (5) n'a pas pour effet de conférer à une personne un droit d'entrée sur un terrain si elle n'a pas ce droit par ailleurs.

Aucun droit d'entrée présumé

DOMMAGES CAUSÉS DANS UNE MUNICIPALITÉ LOCALE

5 (1) Le conseil d'une municipalité locale peut adopter un règlement municipal prévoyant que si un animal sauvage, à l'exception d'un prédateur, tue ou blesse du bétail ou des volailles dans la municipalité, la municipalité verse au propriétaire du bétail ou des volailles l'indemnité fixée par le règlement municipal.

Indemnisation par la municipalité locale en cas de dommages causés par un animal sauvage

(2) Le règlement municipal peut :

Contenu du règlement municipal

- (a) fix the proportion of damage caused to the livestock or poultry for which the local municipality will pay compensation; and
- (b) fix the maximum amount of compensation payable for any head of livestock or poultry killed or injured.

Appointment
of valuers

6.—(1) Every local municipality shall appoint one or more persons as valuers of livestock and poultry.

Notification
and
statement by
owner

(2) An owner of livestock or poultry who believes that any of his or her livestock or poultry has been killed or injured by a predator or a dog and who wants to receive compensation under this Act shall,

- (a) promptly notify a valuer for the municipality in which the livestock or poultry was killed or injured or the clerk of that municipality; and
- (b) within ten days of notifying a valuer or the clerk under clause (a), file a written statement of his or her belief with the clerk of the municipality in which the livestock or poultry was killed or injured.

Notification
of valuer by
clerk

(3) Upon being notified, the clerk shall promptly notify a valuer, and shall notify the owner of the name of that valuer.

Investigation
and report
by valuer

(4) Upon being notified under subsection (2) or (3), the valuer shall make a full investigation of the livestock or poultry that was killed or injured, and within ten days of being notified shall make a report in writing to the clerk and to the owner of the livestock or poultry setting out,

- (a) a finding as to whether the damage to the livestock or poultry was caused by a predator or a dog;
- (b) a finding as to the extent of the damage to the livestock or poultry; and
- (c) a recommended amount of compensation for the damage to the livestock or poultry.

- a) fixer la portion des dommages causés au bétail ou aux volailles pour laquelle la municipalité locale versera une indemnité;
- b) fixer le montant maximal de l'indemnité payable pour toute tête de bétail ou toute volaille tuée ou blessée.

6 (1) Chaque municipalité locale nomme un ou plusieurs évaluateurs de bétail et de volaille.

Nomination
d'évaluateurs

(2) Le propriétaire de bétail ou de volailles qui croit qu'une partie de son bétail ou de ses volailles a été tuée ou blessée par un prédateur ou par un chien et qui souhaite toucher une indemnité aux termes de la présente loi doit :

Notification
par le pro-
priétaire et
déclaration

- a) notifier promptement un évaluateur de la municipalité dans laquelle le bétail ou les volailles ont été tués ou blessés, ou le secrétaire de cette municipalité;
- b) dans les dix jours de la notification d'un évaluateur ou du secrétaire aux termes de l'alinéa a), déposer une déclaration écrite faisant état de sa conviction auprès du secrétaire de la municipalité dans laquelle le bétail ou les volailles ont été tués ou blessés.

(3) Une fois notifié, le secrétaire notifie à son tour promptement un évaluateur et communique au propriétaire le nom de cet évaluateur.

Notification
de l'évalua-
teur par le
secrétaire

(4) Dès que l'évaluateur est notifié comme le prévoit le paragraphe (2) ou (3), il entreprend une enquête approfondie sur le bétail ou les volailles qui ont été tués ou blessés et, dans les dix jours de sa notification, présente au secrétaire et au propriétaire du bétail ou des volailles un rapport écrit indiquant :

Enquête et
rapport de
l'évaluateur

- a) si les dommages causés au bétail ou aux volailles sont, selon ses constatations, le fait d'un prédateur ou d'un chien;
- b) l'étendue constatée des dommages causés au bétail ou aux volailles;
- c) le montant de l'indemnité qu'il recommande de verser en réparation des dommages causés au bétail ou aux volailles.

Duty of
owner not to
destroy
carcass

(5) An owner shall not destroy, or permit to be destroyed, in whole or in part, the carcass of any livestock or poultry before the valuer's report is made, without the written permission of the valuer.

Report of
special
circumstances

(6) The valuer shall, if applicable, include in the report a statement that,

- (a) there is insufficient evidence to indicate that the damage was caused primarily by a predator or a dog;
- (b) the damage was caused by a dog owned by the owner of the livestock or poultry, or habitually kept on the premises where the livestock or poultry was kept;
- (c) the owner had not taken reasonable care to prevent the damage; or
- (d) the owner destroyed, or permitted to be destroyed, in whole or in part, the carcass of any livestock or poultry before receiving the written permission of a valuer.

Where no
local
municipal
valuer

7.—(1) If a local municipality has not appointed any valuer under subsection 6 (1) or if the clerk or the valuer does not discharge the duties imposed within the time limits set out in subsection 6 (3) or (4) respectively, the director shall appoint a valuer upon the application of the owner of any livestock or poultry killed or injured in the municipality by a predator or a dog.

Investigation
and report
by valuer

(2) Upon being appointed, the valuer shall make a full investigation of the livestock or poultry that was killed or injured, and within ten days of being appointed shall make a report in writing to the director setting out the matters described in subsection 6 (4).

Duty of
owner not to
destroy
carcass

(3) An owner shall not destroy, or permit to be destroyed, in whole or in part, the carcass of any livestock or poultry before the valuer's report is made, without the written permission of the valuer.

Report of
special
circumstances

(4) The valuer shall, if applicable, include in the report a statement that the amount of damage to livestock or poultry includes damage incurred under any of the circumstances set out in subsection 6 (6).

(5) Le propriétaire ne doit pas détruire ni permettre que soient détruites, en totalité ou en partie, la ou les carcasses de bétail ou de volaille avant que l'évaluateur n'ait rédigé son rapport, sans l'autorisation écrite de l'évaluateur.

Obligation de ne pas détruire les carcasses

(6) S'il y a lieu, l'évaluateur joint au rapport une déclaration indiquant, le cas échéant, que :

Déclaration des circonstances particulières

- a) les preuves sont insuffisantes pour établir que les dommages ont été causés principalement par un prédateur ou un chien;
- b) les dommages ont été causés par un chien dont est propriétaire le propriétaire du bétail ou des volailles ou qui était habituellement gardé sur les lieux où étaient gardés le bétail ou les volailles;
- c) le propriétaire n'a pas pris de précautions raisonnables pour prévenir les dommages;
- d) le propriétaire a détruit ou permis que soient détruites, en totalité ou en partie, la ou les carcasses de bétail ou de volaille avant d'avoir obtenu l'autorisation écrite de l'évaluateur.

7 (1) Si la municipalité locale n'a pas nommé d'évaluateur aux termes du paragraphe 6 (1) ou si le secrétaire ou l'évaluateur ne s'acquitte pas des fonctions dont il est chargé dans les délais fixés au paragraphe 6 (3) ou (4) respectivement, le directeur nomme un évaluateur à la demande du propriétaire du bétail ou des volailles tués ou blessés dans la municipalité par un prédateur ou par un chien.

Absence d'évaluateur dans la municipalité locale

(2) Dès sa nomination, l'évaluateur entreprend une enquête approfondie sur le bétail ou les volailles qui ont été tués ou blessés et, dans les dix jours de sa nomination, présente au directeur un rapport écrit traitant des questions visées au paragraphe 6 (4).

Enquête et rapport de l'évaluateur

(3) Le propriétaire ne doit pas détruire ni permettre que soient détruites, en totalité ou en partie, la ou les carcasses de bétail ou de volaille avant que l'évaluateur n'ait rédigé son rapport, sans l'autorisation écrite de l'évaluateur.

Obligation du propriétaire de ne pas détruire les carcasses

(4) S'il y a lieu, l'évaluateur joint au rapport une déclaration indiquant que l'ensemble des dommages causés au bétail ou aux volailles comprend le dommage survenu dans l'une ou l'autre des circonstances indiquées au paragraphe 6 (6).

Déclaration des circonstances particulières

Copy of
valuer's
report

(5) The director shall promptly forward a copy of the valuer's report to the clerk of the local municipality and to the owner of the livestock or poultry.

Cost of
valuer's
report

(6) The local municipality shall pay the cost of the valuer's investigation and report in the amount fixed by the director.

Local municipi-
ality's
refusal to
pay compen-
sation

8.—(1) If the valuer's report contains a statement that any of the circumstances set out in subsection 6 (6) or 7 (4) apply, the local municipality may refuse to pay compensation, in whole or in part, for the damage caused to livestock or poultry.

Notice of
refusal

(2) If the local municipality refuses to pay compensation, the clerk of the municipality shall send written notice to the owner of the livestock or poultry within thirty days of receiving a copy of the valuer's report.

Time for
payment

(3) Subject to Part III, if the local municipality fails to give notice of refusing to pay compensation, it shall pay to the owner of the livestock or poultry the amount of compensation set out in the valuer's report within thirty days of receiving a copy of the report.

Owner's
request for
supple-
mentary
report

9.—(1) An owner of livestock or poultry who receives a valuer's report and who is of the opinion that the full extent of the damage to the livestock or poultry was not apparent at the time the report was prepared may request the valuer to make a further investigation and a supplementary report in writing.

Time of
request

(2) The owner's request shall be made within six months of the time at which the damage was caused to the livestock or poultry.

Valuer's
supple-
mentary
report

(3) Within ten days of receiving the request, the valuer shall make the further investigation and supplementary report.

Contents of
supple-
mentary
report

(4) The supplementary report shall set out,

- (a) a finding as to the full extent of the damage to the livestock or poultry; and
- (b) a recommended amount of additional compensation for the damage to the livestock or poultry.

(5) Le directeur fait parvenir promptement une copie du rapport de l'évaluateur au secrétaire de la municipalité locale ainsi qu'au propriétaire du bétail ou des volailles.

Copie du rapport de l'évaluateur

(6) La municipalité locale assume les frais relatifs à l'enquête de l'évaluateur et à la préparation de son rapport, frais dont le montant est fixé par le directeur.

Frais du rapport de l'évaluateur

8 (1) Si le rapport de l'évaluateur contient une déclaration selon laquelle l'une ou l'autre des circonstances indiquées au paragraphe 6 (6) ou 7 (4) s'applique, la municipalité locale peut refuser de verser tout ou partie de l'indemnité pour les dommages causés au bétail ou aux volailles.

Refus d'indemnisation par la municipalité locale

(2) Si la municipalité locale refuse de verser l'indemnité, le secrétaire de la municipalité remet un avis écrit à cet effet au propriétaire du bétail ou des volailles dans les trente jours de la date où elle a reçu copie du rapport de l'évaluateur.

Avis de refus

(3) Sous réserve de la partie III, si la municipalité locale ne donne pas avis de son refus de verser l'indemnité, elle verse au propriétaire du bétail ou des volailles le montant de l'indemnité indiqué dans le rapport de l'évaluateur dans les trente jours de la date où elle a reçu une copie de ce rapport.

Délai de paiement

9 (1) Le propriétaire de bétail ou de volailles qui reçoit le rapport d'un évaluateur et qui est d'avis que toute l'étendue des dommages causés au bétail ou aux volailles n'était pas apparente au moment de la rédaction du rapport peut demander à l'évaluateur de mener une nouvelle enquête et de rédiger un rapport supplémentaire.

Demande d'un rapport supplémentaire par le propriétaire

(2) Le propriétaire doit faire sa demande dans les six mois de la date à laquelle les dommages ont été causés au bétail ou aux volailles.

Délai imparti pour faire la demande

(3) L'évaluateur qui reçoit la demande dispose de dix jours pour mener la nouvelle enquête et présenter le rapport supplémentaire.

Rapport supplémentaire de l'évaluateur

(4) Le rapport supplémentaire indique :

Contenu du rapport supplémentaire

a) toute l'étendue constatée des dommages causés au bétail ou aux volailles;

b) le montant de l'indemnité supplémentaire qu'il est recommandé de verser en réparation des dommages causés au bétail ou aux volailles.

Copies of
supple-
mentary
report

(5) The valuer shall send a copy of the supplementary report to,

- (a) the clerk of the local municipality and the owner of the livestock or poultry, in the case of a valuer acting under section 6; or
- (b) the director, in the case of a valuer acting under section 7.

Further
copies of
supple-
mentary
report

(6) If the director receives a supplementary report under clause (5) (b), he or she shall promptly forward a copy of it to the clerk of the local municipality and to the owner of the livestock or poultry.

Cost of
supple-
mentary
report

(7) In the case of a valuer acting under section 7, the local municipality shall pay the cost of the valuer's further investigation and supplementary report in the amount fixed by the director.

Local muni-
cipality's
refusal to
pay
additional
compensation

10.—(1) If the local municipality has refused to pay compensation under section 8, it may refuse to pay the amount of additional compensation set out in the valuer's supplementary report.

Noise of
refusal

(2) If the local municipality refuses to pay the amount of additional compensation, the clerk of the municipality shall send written notice to the owner of the livestock or poultry within thirty days of receiving a copy of the valuer's supplementary report.

Time for
payment

(3) Subject to Part III, if the local municipality fails to give notice of refusing to pay the amount of additional compensation, it shall pay that amount to the owner of the livestock or poultry within thirty days of receiving a copy of the valuer's supplementary report.

Definition
R.S.O. 1980,
c. 270

11.—(1) In this section, "Tribunal" means the Farm Products Appeal Tribunal continued under the *Ministry of Agriculture and Food Act*. ("Commission")

Local muni-
cipality's
application
for
reimburse-
ment

(2) A local municipality that pays compensation under this Act to an owner of livestock or poultry with respect to damage caused by a predator may apply to the director for reimbursement of that payment.

Time and
form of
application

(3) In order to apply for reimbursement, the local municipality shall submit a claim to the director within one year of paying compensation and in a form provided by the director.

(5) L'évaluateur envoie une copie du rapport supplémentaire :

Copies du rapport supplémentaire

a) au secrétaire de la municipalité locale ainsi qu'au propriétaire du bétail ou des volailles, si l'évaluateur agit en vertu de l'article 6;

b) au directeur, si l'évaluateur agit en vertu de l'article 7.

(6) Si le directeur reçoit un rapport supplémentaire comme le prévoit l'alinéa (5) b), il en fait parvenir promptement une copie au secrétaire de la municipalité locale ainsi qu'au propriétaire du bétail ou des volailles.

Autres copies du rapport supplémentaire

(7) Si l'évaluateur agit en vertu de l'article 7, la municipalité locale assume les frais relatifs à la nouvelle enquête de l'évaluateur et à la préparation de son rapport supplémentaire, frais dont le montant est fixé par le directeur.

Frais du rapport supplémentaire

10 (1) Si la municipalité locale a refusé de verser une indemnité en vertu de l'article 8, elle peut refuser de verser le montant de l'indemnité supplémentaire indiqué dans le rapport supplémentaire de l'évaluateur.

Refus de la municipalité locale de verser une indemnité supplémentaire

(2) Si la municipalité locale refuse de verser le montant de l'indemnité supplémentaire, le secrétaire de la municipalité remet un avis écrit à cet effet au propriétaire du bétail ou des volailles dans les trente jours de la date où elle a reçu copie du rapport supplémentaire de l'évaluateur.

Avis de refus

(3) Sous réserve de la partie III, si la municipalité locale ne donne pas avis de son refus de verser le montant de l'indemnité supplémentaire, elle verse ce montant au propriétaire du bétail ou des volailles dans les trente jours de la date où elle a reçu copie du rapport supplémentaire de l'évaluateur.

Délai de paiement

11 (1) Dans le présent article, «Commission» s'entend de la Commission d'appel pour les produits agricoles qui est maintenue aux termes de la *Loi sur le ministère de l'Agriculture et de l'Alimentation*. («Tribunal»)

Définition

L.R.O. 1980, chap. 270

(2) La municipalité locale qui verse une indemnité aux termes de la présente loi à un propriétaire de bétail ou de volailles pour des dommages causés par un prédateur peut demander au directeur le remboursement de ce paiement.

Demande de remboursement de la municipalité locale

(3) Pour faire une demande de remboursement, la municipalité locale présente une réclamation au directeur dans l'an-

Délai de présentation de la demande et formule

Reimburse-
ment by
director

(4) The director may reimburse the local municipality for the amount claimed in the application.

Director's
reasons for
refusing
reimburse-
ment

(5) If the director refuses to reimburse the local municipality for the amount claimed in the application, he or she shall send a written notice to the municipality setting out the reasons for the refusal.

Appeal to
Tribunal

(6) If the director refuses to make the reimbursement on the basis that the damage was not caused by a predator, the local municipality may appeal the matter to the Tribunal by filing a written notice with the Tribunal and sending a copy to the director.

Hearing

(7) If the local municipality makes an appeal to the Tribunal, the Tribunal shall hold a hearing and determine whether the damage, in whole or in part, was caused by a predator.

Effect of
determination

(8) The determination made by the Tribunal is binding on the parties.

Liability of
owner of dog
causing
damage

12.—(1) A local municipality that makes a payment under this Act to an owner of livestock or poultry with respect to damage caused by a dog may recover the amount of that payment from the owner of the dog in a court of competent jurisdiction without the need to prove that the dog was vicious or accustomed to kill or injure livestock or poultry.

Inquiry to
ascertain
identity of
owner of dog

(2) The local municipality may conduct an inquiry in order to ascertain the identity of the owner of the dog that has caused the damage.

Powers on
inquiry
R.S.O. 1980,
c. 411

(3) For the purposes of the inquiry, the local municipality has the powers of a commission under Part II of the *Public Inquiries Act*, which part applies to the inquiry as if it were an inquiry under that Act.

Apportion-
ment of
damage
among the
dogs

(4) If it appears that the damage to livestock or poultry was caused by two or more dogs, the local municipality may apportion the damage among the dogs in a manner that is considered just, having regard to the strength, ferocity and character of the dogs.

née qui suit le versement de l'indemnité, et ce, sur la formule fournie par le directeur.

- (4) Le directeur peut rembourser la municipalité locale du montant réclamé dans la demande. Remboursement par le directeur
- (5) Si le directeur ne rembourse pas la municipalité locale du montant réclamé dans la demande, il envoie un avis écrit à la municipalité qui indique les raisons pour lesquelles il refuse d'effectuer le remboursement. Raisons du directeur pour refuser le remboursement
- (6) Si le directeur refuse d'effectuer un remboursement en raison du fait que les dommages n'ont pas été causés par un prédateur, la municipalité locale peut porter la question en appel devant la Commission en déposant un avis écrit auprès de celle-ci et en envoyant une copie au directeur. Appel devant la Commission
- (7) Si la municipalité locale interjette appel devant la Commission, celle-ci tient une audience et établit si les dommages ont été causés, en totalité ou en partie, par un prédateur. Audience
- (8) La décision rendue par la Commission lie les parties. Effet de la décision
- 12** (1) La municipalité locale qui verse une indemnité aux termes de la présente loi à un propriétaire de bétail ou de volailles pour des dommages causés par un chien peut recourir auprès du propriétaire du chien le montant de ce paiement devant un tribunal compétent, sans qu'il soit besoin de prouver que le chien était méchant ou porté à tuer ou à blesser du bétail ou des volailles. Responsabilité du propriétaire du chien qui a causé les dommages
- (2) La municipalité locale peut mener une enquête en vue d'établir l'identité du propriétaire du chien qui a causé les dommages. Enquête visant à établir l'identité du propriétaire du chien
- (3) Pour les besoins de l'enquête, la municipalité locale est investie des pouvoirs conférés à une commission par la partie II de la *Loi sur les enquêtes publiques*, laquelle s'applique à l'enquête comme s'il s'agissait d'une enquête faite en vertu de cette loi. Pouvoirs d'enquête
L.R.O. 1980, chap. 411
- (4) S'il appert que les dommages causés au bétail ou aux volailles ont été causés par plusieurs chiens, la municipalité locale peut répartir les dommages entre les chiens d'une manière qu'elle juge équitable, en tenant compte de la force, de la férocité et du caractère de ces chiens. Répartition des dommages entre les chiens

DAMAGE CAUSED IN UNORGANIZED TERRITORY

Valuers in
unorganized
territory
R.S.O. 1980,
c. 12

13.—(1) For the purpose of this section, every agricultural representative and every assistant agricultural representative appointed under the *Agricultural Representatives Act* is a valuer in territory without municipal organization.

Notification
and
statement by
owner

(2) An owner of livestock or poultry kept in territory without municipal organization who believes that any of his or her livestock or poultry has been killed or injured by a predator and who wants to receive compensation under this Act shall,

- (a) promptly notify a valuer; and
- (b) within ten days of notifying a valuer under clause (a), file a written statement of his or her belief with the director.

Investigation
and report
by valuer

(3) Upon being notified, the valuer shall make a full investigation of the livestock or poultry that was killed or injured, and within ten days of being notified shall make a report in writing to the director and to the owner of the livestock or poultry setting out,

- (a) a finding as to whether the damage to the livestock or poultry was caused by a predator;
- (b) a finding as to the extent of the damage to the livestock or poultry; and
- (c) a recommended amount of compensation for the damage to the livestock or poultry.

Duty of
owner not to
destroy
carcass

(4) An owner shall not destroy, or permit to be destroyed, in whole or in part, the carcass of any livestock or poultry before the valuer's report is made, without the written permission of the valuer.

Report of
special
circumstances

(5) The valuer shall, if applicable, include in the report a statement that,

- (a) there is insufficient evidence to indicate that the damage was caused primarily by a predator;

DOMMAGES CAUSÉS DANS UN TERRITOIRE NON ÉRIGÉ EN MUNICIPALITÉ

13 (1) Pour l'application du présent article, tout représentant agricole et tout représentant agricole adjoint nommés en vertu de la *Loi sur les représentants agricoles* sont des évaluateurs dans un territoire non érigé en municipalité.

Évaluateurs dans un territoire non érigé en municipalité

L.R.O. 1980, chap. 12

(2) Le propriétaire de bétail ou de volailles gardés dans un territoire non érigé en municipalité qui croit qu'une partie quelconque de son bétail ou de ses volailles a été tuée ou blessée par un prédateur et qui souhaite toucher une indemnité aux termes de la présente loi doit :

Notification par le propriétaire et déclaration

- a) notifier sans tarder un évaluateur;
- b) dans les dix jours de la notification d'un évaluateur aux termes de l'alinéa a), déposer auprès du directeur une déclaration écrite faisant état de sa conviction.

(3) Dès que l'évaluateur est notifié, il entreprend une enquête approfondie sur le bétail ou les volailles qui ont été tués ou blessés et, dans les dix jours de sa notification, présente au directeur ainsi qu'au propriétaire du bétail ou des volailles, un rapport écrit indiquant :

Enquête et rapport de l'évaluateur

- a) si les dommages causés au bétail ou aux volailles sont, selon ses constatations, le fait d'un prédateur;
- b) l'étendue constatée des dommages causés au bétail ou aux volailles;
- c) le montant de l'indemnité qu'il recommande de verser en réparation des dommages causés au bétail ou aux volailles.

(4) Le propriétaire ne doit pas détruire ni permettre que soient détruites, en totalité ou en partie, la ou les carcasses de bétail ou de volaille avant que l'évaluateur n'ait rédigé son rapport, sans l'autorisation écrite de l'évaluateur.

Obligation du propriétaire de ne pas détruire les carcasses

(5) S'il y a lieu, l'évaluateur joint au rapport une déclaration indiquant, le cas échéant, que :

Déclaration des circonstances particulières

- a) les preuves sont insuffisantes pour établir que les dommages ont été causés principalement par un prédateur;

- (b) the owner had not taken reasonable care to prevent the damage; or
- (c) the owner destroyed, or permitted to be destroyed, in whole or in part, the carcass of any livestock or poultry before receiving the written permission of a valuer.

Director's
refusal to
pay compen-
sation

14.—(1) If the valuer's report contains a statement that any of the circumstances set out in subsection 13 (5) apply, the director may refuse to pay compensation, in whole or in part, for the damage caused to livestock or poultry.

Notice of
refusal

(2) If the director refuses to pay compensation, he or she shall send written notice to the owner of the livestock or poultry within thirty days of receiving the valuer's report.

Time for
payment

(3) Subject to Part III, if the director fails to give notice of refusing to pay compensation, he or she shall pay to the owner of the livestock or poultry the amount of compensation set out in the valuer's report within thirty days of receiving the report.

Owner's
request for
supple-
mentary
report

15.—(1) An owner of livestock or poultry who receives a valuer's report and who is of the opinion that the full extent of the damage to the livestock or poultry was not apparent at the time the report was prepared may request the valuer to make a further investigation and a supplementary report in writing.

Time of
request

(2) The owner's request shall be made within six months of the time at which the damage was caused to the livestock or poultry.

Valuer's
supple-
mentary
report

(3) Within ten days of receiving the request, the valuer shall make the further investigation and supplementary report.

Contents of
supple-
mentary
report

(4) The supplementary report shall set out,

- (a) a finding as to the full extent of the damage to the livestock or poultry; and
- (b) a recommended amount of additional compensation for the damage to the livestock or poultry.

- b) le propriétaire n'a pas pris de précautions raisonnables pour prévenir les dommages;
- c) le propriétaire a détruit ou permis que soient détruites, en totalité ou en partie, la ou les carcasses de bétail ou de volaille avant d'avoir obtenu l'autorisation écrite de l'évaluateur.

14 (1) Si le rapport de l'évaluateur contient une déclaration selon laquelle l'une ou l'autre des circonstances indiquées au paragraphe 13 (5) s'applique, le directeur peut refuser de verser tout ou partie de l'indemnité pour les dommages causés au bétail ou aux volailles.

Refus d'indemnisation par le directeur

(2) Si le directeur refuse de verser l'indemnité, il remet un avis écrit à cet effet au propriétaire du bétail ou des volailles dans les trente jours de la date où il a reçu le rapport de l'évaluateur.

Avis de refus

(3) Sous réserve de la partie III, si le directeur ne donne pas avis de son refus de verser l'indemnité, il verse au propriétaire du bétail ou des volailles le montant de l'indemnité indiqué dans le rapport de l'évaluateur dans les trente jours de la date où il a reçu ce rapport.

Délai de paiement

15 (1) Le propriétaire de bétail ou de volailles qui reçoit le rapport d'un évaluateur et qui est d'avis que toute l'étendue des dommages causés au bétail ou aux volailles n'était pas apparente au moment de la rédaction du rapport peut demander à l'évaluateur de mener une nouvelle enquête et de rédiger un rapport supplémentaire.

Demande d'un rapport supplémentaire par le propriétaire

(2) Le propriétaire doit faire sa demande dans les six mois de la date à laquelle les dommages ont été causés au bétail ou aux volailles.

Délai imparti pour faire la demande

(3) L'évaluateur qui reçoit la demande dispose de dix jours pour mener la nouvelle enquête et présenter le rapport supplémentaire.

Rapport supplémentaire de l'évaluateur

(4) Le rapport supplémentaire indique :

Contenu du rapport supplémentaire

- a) toute l'étendue constatée des dommages causés au bétail ou aux volailles;

Copies of
supple-
mentary
report

(5) The valuer shall send a copy of the supplementary report to the director and to the owner of the livestock or poultry.

Director's
refusal to
pay
additional
compensation

16.—(1) If the director has refused to pay compensation under section 14, he or she may refuse to pay the amount of additional compensation set out in the valuer's supplementary report.

Notice of
refusal

(2) If the director refuses to pay the amount of additional compensation, he or she shall send written notice to the owner of the livestock or poultry within thirty days of receiving a copy of the valuer's supplementary report.

Time for
payment

(3) Subject to Part III, if the director fails to give notice of refusing to pay the amount of additional compensation, he or she shall pay that amount to the owner of the livestock or poultry within thirty days of receiving a copy of the valuer's supplementary report.

Liability of
owner of dog
causing
damage

17. If a dog kills or injures livestock or poultry in territory without municipal organization, the owner of the livestock or poultry may recover compensation for the amount of damage caused from the owner of the dog in a court of competent jurisdiction without the need to prove that the dog was vicious or accustomed to injuring or killing livestock or poultry.

PART II

BEES

Notification
and
statement by
owner

18.—(1) An owner of a colony of bees or hive equipment who believes that his or her bees or hive equipment has been damaged or destroyed by a bear and who wants to receive compensation under this Act shall,

- (a) promptly notify the director; and
- (b) within ten days of notifying the director under clause (a), file a written statement of his or her belief with the director.

- b) le montant de l'indemnité supplémentaire qu'il est recommandé de verser en réparation des dommages causés au bétail ou aux volailles.

(5) L'évaluateur envoie une copie du rapport supplémentaire au directeur ainsi qu'au propriétaire du bétail ou des volailles.

Copies du rapport supplémentaire

16 (1) Si le directeur a refusé de verser une indemnité en vertu de l'article 14, il peut refuser de verser le montant de l'indemnité supplémentaire indiqué dans le rapport supplémentaire de l'évaluateur.

Refus du directeur de verser une indemnité supplémentaire

(2) Si le directeur refuse de verser le montant de l'indemnité supplémentaire, il remet un avis écrit à cet effet au propriétaire du bétail ou des volailles dans les trente jours de la date où il a reçu copie du rapport supplémentaire de l'évaluateur.

Avis de refus

(3) Sous réserve de la partie III, si le directeur ne donne pas avis de son refus de verser le montant de l'indemnité supplémentaire, il verse ce montant au propriétaire du bétail ou des volailles dans les trente jours de la date où il a reçu copie du rapport supplémentaire de l'évaluateur.

Délai de paiement

17 Si un chien tue ou blesse du bétail ou des volailles dans un territoire non érigé en municipalité, le propriétaire du bétail ou des volailles peut recouvrer auprès du propriétaire du chien une indemnité en réparation de l'ensemble des dommages causés devant un tribunal compétent, sans qu'il soit besoin de prouver que le chien était méchant ou porté à tuer ou à blesser du bétail ou des volailles.

Responsabilité du propriétaire du chien qui a causé les dommages

PARTIE II

ABEILLES

18 (1) Le propriétaire d'une colonie d'abeilles ou de matériel apicole qui croit qu'un ours a causé des dommages à ses abeilles ou à son matériel apicole ou les a détruits et qui souhaite toucher une indemnité aux termes de la présente loi doit :

Notification par le propriétaire et déclaration

- a) notifier sans tarder le directeur;
- b) dans les dix jours de la notification du directeur aux termes de l'alinéa a), déposer auprès du directeur une déclaration écrite faisant état de sa conviction.

Appointment
of valuer

(2) Upon being notified, the director shall promptly appoint a valuer.

Investigation
and report
by valuer

(3) Upon being appointed, the valuer shall make a full investigation of the damage, and within ten days of being appointed shall make a report in writing to the director and to the owner of the bees or hive equipment setting out,

- (a) a finding as to whether the damage to the bees or hive equipment was caused by a bear;
- (b) a finding as to the extent of the damage to the bees or hive equipment; and
- (c) a recommended amount of compensation for the damage to the bees or hive equipment.

Duty of
owner not to
destroy
evidence of
damage

(4) An owner shall not destroy, or permit to be destroyed, in whole or in part, evidence of damage to the bees or the hive equipment before the valuer's report is made, without the written permission of the valuer.

Report of
special
circumstances

(5) The valuer shall, if applicable, include in the report a statement that,

- (a) there is insufficient evidence to indicate that the damage was caused primarily by a bear;
- (b) the owner had not taken reasonable care to prevent the damage; or
- (c) the owner destroyed, or permitted to be destroyed, in whole or in part, evidence of damage to the bees or hive equipment before receiving the written permission of a valuer.

Director's
refusal to
pay

19.—(1) If the valuer's report contains a statement that any of the circumstances set out in subsection 18 (5) apply, the director may refuse to pay compensation, in whole or in part, for the damage caused to a colony of bees or hive equipment.

Notice of
refusal

(2) If the director refuses to pay compensation, he or she shall send written notice to the owner of the bees or hive equipment within thirty days of receiving the valuer's report.

(2) Une fois avisé, le directeur nomme promptement un évaluateur.

Nomination
d'un évalua-
teur

(3) Dès sa nomination, l'évaluateur entreprend une enquête approfondie sur les dommages causés et, dans les dix jours de sa nomination, présente au directeur ainsi qu'au propriétaire des abeilles ou du matériel apicole, un rapport écrit indiquant :

Enquête et
rapport de
l'évaluateur

- a) si les dommages causés aux abeilles ou au matériel apicole sont, selon ses constatations, le fait d'un ours;
- b) l'étendue constatée des dommages causés aux abeilles ou au matériel apicole;
- c) le montant de l'indemnité qu'il recommande de verser en réparation des dommages causés aux abeilles ou au matériel apicole.

(4) Le propriétaire ne doit pas détruire ni permettre que soient détruites, en totalité ou en partie, les preuves des dommages causés aux abeilles ou au matériel apicole avant que l'évaluateur n'ait rédigé son rapport, sans l'autorisation écrite de l'évaluateur.

Obligation du
propriétaire
de ne pas
détruire les
preuves des
dommages

(5) S'il y a lieu, l'évaluateur joint au rapport une déclaration indiquant, le cas échéant, que :

Déclaration
des circons-
tances particu-
lières

- a) les preuves sont insuffisantes pour établir que les dommages ont été causés principalement par un ours;
- b) le propriétaire n'a pas pris de précautions raisonnables pour prévenir les dommages;
- c) le propriétaire a détruit ou permis que soient détruites, en totalité ou en partie, les preuves des dommages causés aux abeilles ou au matériel apicole avant d'avoir obtenu l'autorisation écrite de l'évaluateur.

19 (1) Si le rapport de l'évaluateur contient une déclaration selon laquelle l'une ou l'autre des circonstances indiquées au paragraphe 18 (5) s'applique, le directeur peut refuser de verser tout ou partie de l'indemnité pour les dommages causés à une colonie d'abeilles ou à du matériel apicole.

Refus d'in-
demniser du
directeur

(2) Si le directeur refuse de verser l'indemnité, il remet un avis écrit à cet effet au propriétaire des abeilles ou du matériel

Avis de refus

Time for
payment

(3) Subject to Part III, if the director fails to give notice of refusing to pay compensation, he or she shall pay to the owner of the bees or hive equipment the amount of compensation set out in the valuer's report within thirty days of receiving the valuer's report.

PART III

GENERAL

Appeal of
valuer's
report

20.—(1) A local municipality or an owner of livestock, poultry, a colony of bees or hive equipment that receives a valuer's report or supplementary report under this Act may appeal the report to the director.

Method and
time for
appeal

(2) In order to make an appeal, an appellant shall file a written notice of appeal and deposit the sum of \$25 with the director within thirty days of receiving the valuer's report that is being appealed.

Investigation
and report
by new
valuer

(3) If an appeal has been made, the director shall appoint a new valuer who shall make a further investigation and shall make a report in writing to the director.

Contents of
new valuer's
report

(4) The new valuer's report shall include all particulars that were required to be included in the valuer's report being appealed.

Copy of new
valuer's
report

(5) The director shall promptly forward to the parties a copy of the new valuer's report.

Forfeiture of
appeal fee

(6) The appellant shall forfeit the sum of \$25 deposited in accordance with subsection (2), if the director considers that the new valuer's report sustains the valuer's report being appealed.

Effect of new
valuer's
report

(7) Subject to section 21, sections 8, 10, 14, 16 and 19 apply to the new valuer's report in the place of the valuer's report being appealed.

Appeal to
Ontario
Court
(General
Division)

21.—(1) A party to an appeal under section 20 who is dissatisfied with the new valuer's report may, within thirty days of receiving that report, appeal to a judge of the Ontario Court (General Division) of the district in which the damage was caused to the livestock, poultry, colony of bees or hive equipment, as the case may be.

apicole dans les trente jours de la date où il a reçu le rapport de l'évaluateur.

(3) Sous réserve de la partie III, si le directeur ne donne pas avis de son refus de verser l'indemnité, il verse au propriétaire des abeilles ou du matériel apicole le montant de l'indemnité indiqué dans le rapport de l'évaluateur dans les trente jours de la date où il a reçu le rapport de l'évaluateur.

Délai de paiement

PARTIE III

DISPOSITIONS GÉNÉRALES

20 (1) La municipalité locale ou le propriétaire de bétail, de volailles, d'une colonie d'abeilles ou de matériel apicole qui reçoit un rapport ou un rapport supplémentaire d'évaluateur aux termes de la présente loi peut contester le rapport en faisant appel devant le directeur.

Appel relatif au rapport de l'évaluateur

(2) Pour interjeter appel, l'appelant dépose auprès du directeur un avis écrit d'appel accompagné d'une somme de 25 \$ dans les trente jours de la date où il a reçu le rapport de l'évaluateur qui fait l'objet de l'appel.

Modalités relatives à l'appel et délai

(3) S'il est interjeté appel, le directeur nomme un nouvel évaluateur qui mène une autre enquête et qui lui présente un rapport par écrit à ce sujet.

Enquête et rapport du nouvel évaluateur

(4) Le rapport du nouvel évaluateur contient tous les renseignements devant être fournis dans le rapport de l'évaluateur qui fait l'objet de l'appel.

Contenu du rapport du nouvel évaluateur

(5) Le directeur fait parvenir promptement aux parties une copie du rapport du nouvel évaluateur.

Copie du rapport du nouvel évaluateur

(6) Si le directeur estime que le rapport du nouvel évaluateur confirme le rapport de l'évaluateur qui fait l'objet de l'appel, l'appelant perd par confiscation la somme de 25 \$ qu'il a déposée conformément au paragraphe (2).

Confiscation des droits d'appel

(7) Sous réserve de l'article 21, les articles 8, 10, 14, 16 et 19 s'appliquent au rapport du nouvel évaluateur plutôt qu'au rapport de l'évaluateur qui fait l'objet de l'appel.

Effet du rapport du nouvel évaluateur

21 (1) Toute partie à un appel prévu à l'article 20 qui est insatisfaite du rapport du nouvel évaluateur peut, dans les trente jours de la date où elle reçoit ce rapport, interjeter devant un juge de la Cour de l'Ontario (Division générale) du district dans lequel sont survenus les dommages causés au

Appel devant la Cour de l'Ontario (Division générale)

Effect of
Court's
decision

(2) Subject to section 22, the Ontario Court (General Division) shall determine the compensation that the local municipality or the director, as the case may be, shall pay under this Act.

Maximum
amount of
compensation
payable

22.—(1) The amount of compensation payable for damage under this Act shall not exceed the lesser of,

- (a) the market value of the livestock, poultry, colony of bees or hive equipment, as the case may be, at the time the damage was caused; or
- (b) the maximum amount of compensation prescribed by the regulations under this Act.

Reduction of
compensation
payable

(2) The amount of compensation payable for any damage under this Act shall be reduced by the amount that is payable under any contract of insurance for that damage.

No compen-
sation,
offence

23. Every person who knowingly makes a false statement in connection with an application for compensation under this Act,

- (a) shall not receive any compensation under this Act; and
- (b) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

24. The Lieutenant Governor in Council may make regulations,

- (a) designating animals or classes of animals as predators for the purpose of this Act;
- (b) prescribing the maximum amount of compensation payable under this Act according to the species, class, size or weight, as the case may be, of the livestock or poultry that is killed or injured or of the colony of bees or hive equipment that is damaged or destroyed.

bétail, aux volailles, à la colonie d'abeilles ou au matériel apicole, selon le cas.

(2) Sous réserve de l'article 22, la Cour de l'Ontario (Division générale) détermine l'indemnité que la municipalité locale ou le directeur, selon le cas, doit verser aux termes de la présente loi.

Effet de la
décision de la
Cour

22 (1) Le montant de l'indemnité payable en réparation des dommages causés, aux termes de la présente loi, ne dépasse pas le moindre des montants suivants :

Montant
maximal de
l'indemnité
payable

- a) la valeur marchande du bétail, des volailles, de la colonie d'abeilles ou du matériel apicole, selon le cas, telle qu'elle s'établissait au moment où sont survenus les dommages;
- b) le montant maximal d'indemnisation prescrit par les règlements pris en application de la présente loi.

(2) Le montant de l'indemnité payable pour des dommages couverts par la présente loi est réduit du montant qui est payable aux termes d'un contrat d'assurance pour ces dommages.

Réduction de
l'indemnité
payable

23 Quiconque fait sciemment une fausse déclaration relativement à une demande d'indemnisation faite aux termes de la présente loi :

Aucune
indemnisation.
infraction

- a) ne peut toucher d'indemnité en vertu de la présente loi;
- b) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$.

24 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) désigner comme prédateurs certains animaux ou certaines catégories d'animaux pour l'application de la présente loi;
- b) prescrire le montant maximal de l'indemnité payable aux termes de la présente loi en fonction, selon le cas, de l'espèce, de la catégorie, de la taille ou du poids du bétail ou des volailles tués ou blessés, ou de la colonie d'abeilles ou du matériel apicole qui a subi des dommages ou a été détruit.

Repeals

25. The following are repealed:

1. *The Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 123 of the Revised Statutes of Ontario, 1980.
2. *The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1981*, being chapter 31.

Commence-
ment

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

27. The short title of this Act is the *Livestock, Poultry and Bees Damage Compensation Act, 1990*.

25 Les lois et articles suivants sont abrogés :

Abrogations

1. La loi intitulée *Dog Licensing and Live Stock and Poultry Protection Act*, qui constitue le chapitre 123 des Lois refondues de l'Ontario de 1980.
2. La loi intitulée *Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1981*, qui constitue le chapitre 31.

26 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

27 Le titre abrégé de la présente loi est *Loi de 1990 sur l'indemnisation en cas de dommages causés à du bétail, à des volailles et à des abeilles*.

Titre abrégé



Bill 224



**An Act to repeal The John Graves Simcoe
Memorial Foundation Act, 1965**

The Hon. H. O'Neil

Minister of Culture and Communications

1st Reading June 14th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The John Graves Simcoe Memorial Foundation Act, 1965 is repealed since the building known as Wolford Chapel in Devon, England containing the remains of John Graves Simcoe is now maintained by the Ontario Heritage Foundation.

Bill 224**1990**

**An Act to repeal The John Graves Simcoe
Memorial Foundation Act, 1965**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The John Graves Simcoe Memorial Foundation Act, 1965* 1965, c. 125
is repealed.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *John Graves Simcoe* Short title
Memorial Foundation Repeal Act, 1990.

Bill 225

An Act to amend the Landlord and Tenant Act with respect to Animals

The Hon. I. Scott
Attorney General



1st Reading June 18th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to clarify the circumstances in which tenants with pets may be evicted from residential premises.

Eviction based on substantial interference with the reasonable enjoyment of the premises by the landlord or other tenants, or on serious impairment of the safety or other rights, privileges or interests of other tenants, will be permitted only if the judge is satisfied that the tenant is keeping an animal and that one of the following criteria is met:

1. The past behaviour of an animal of that species has caused substantial interference.
2. The presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction.
3. The presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants.

In the case of a finding that an animal of the species kept by the tenant has caused substantial interference or an allergic reaction, the tenant can still avoid eviction by establishing that his or her animal did not cause or contribute to that result.

Similar restrictions are imposed on the granting of injunctions and other orders requiring tenants to comply with "no pet" provisions.

In addition, the fact that a tenant has signed an agreement containing "no pet" provisions or that other tenants have done so shall not be considered in determining whether there has been substantial interference with the reasonable enjoyment of the premises by the landlord or the other tenants or serious impairment of their safety or other rights, privileges or interests.

Bill 225

1990

An Act to amend the Landlord and Tenant Act with respect to Animals

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 109 of the *Landlord and Tenant Act* is amended by adding the following subsections: R.S.O. 1980,
c. 232

(5a) Where the notice of termination is served under clause (1) (c) or (d) and is based on the presence, control or behaviour of an animal in or about the rented premises, a judge hearing an application under section 113 brought by the landlord under subsection (3) or (4) shall not direct the issue of a writ of possession unless the judge is satisfied that the tenant is keeping an animal and that,

Criteria re
animals

- (a) the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants;
- (b) the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or
- (c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants.

(5b) Even if satisfied that the tenant is keeping an animal and that the criterion set out in clause (5a) (a) or the one set out in clause (5a) (b) has been met, the judge shall not direct the issue of a writ of possession if he or she is also satisfied, Idem

- (a) in the case of a finding under clause (5a) (a), that the animal kept by the tenant did not cause or contribute to the substantial interference;

- (b) in the case of a finding under clause (5a) (b), that the animal kept by the tenant did not cause or contribute to the allergic reaction.

2. The Act is amended by adding the following sections:

Injunctions
and orders
based on "no
pet"
provisions

109a.—(1) No injunction, mandatory order or other order shall be granted against a tenant based on provisions of an agreement respecting the presence, control or behaviour of an animal in or about the rented premises unless the court is satisfied that the tenant is keeping an animal and that,

- (a) the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants;
- (b) the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or
- (c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants.

Idem

(2) Even if satisfied that the tenant is keeping an animal and that the criterion set out in clause (1) (a) or the one set out in clause (1) (b) has been met, the judge shall not grant the injunction, mandatory order or other order if he or she is also satisfied,

- (a) in the case of a finding under clause (1) (a), that the animal kept by the tenant did not cause or contribute to the substantial interference;
- (b) in the case of a finding under clause (1) (b), that the animal kept by the tenant did not cause or contribute to the allergic reaction.

"No pet"
provisions
not to be
considered

109b. The provisions of an agreement to which the tenant is a party respecting the presence, control or behaviour of animals and the provisions of similar agreements to which other tenants are parties shall not be considered in determining,

- (a) for the purposes of clauses 109 (1) (c), 109 (5a) (a) and 109a (1) (a), whether there has been substantial interference with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants; or

- (b) for the purposes of clause 109 (1) (d), whether the safety or other *bona fide* and lawful right, privilege or interest of any other tenant in the residential premises has been seriously impaired.

3. Subsections 109 (5a) and (5b) and sections 109a and 109b of the Act, as enacted by sections 1 and 2 of this Act, apply to every proceeding the hearing of which, including the hearing of an appeal, is completed on or after the day this Act comes into force, even if the proceeding was commenced before that day. Transition

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is the *Landlord and Tenant Amendment (Animals) Act, 1990*. Short title

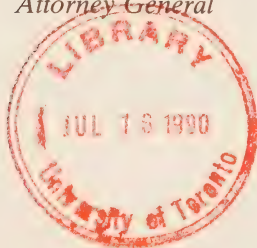
Bill 225

(Chapter 19
Statutes of Ontario, 1990)

An Act to amend the Landlord and Tenant Act with respect to Animals

The Hon. I. Scott

Attorney General



<i>1st Reading</i>	June 18th, 1990
<i>2nd Reading</i>	June 27th, 1990
<i>3rd Reading</i>	June 28th, 1990
<i>Royal Assent</i>	June 28th, 1990

Bill 225

1990

**An Act to amend the
Landlord and Tenant Act with respect to Animals**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 109 of the *Landlord and Tenant Act* is amended by adding the following subsections: R.S.O. 1980,
c. 232

(5a) Where the notice of termination is served under clause (1) (c) or (d) and is based on the presence, control or behaviour of an animal in or about the rented premises, a judge hearing an application under section 113 brought by the landlord under subsection (3) or (4) shall not direct the issue of a writ of possession unless the judge is satisfied that the tenant is keeping an animal and that,

Criteria re
animals

- (a) the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants;
- (b) the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or
- (c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants.

(5b) Even if satisfied that the tenant is keeping an animal and that the criterion set out in clause (5a) (a) or the one set out in clause (5a) (b) has been met, the judge shall not direct the issue of a writ of possession if he or she is also satisfied,

Idem

- (a) in the case of a finding under clause (5a) (a), that the animal kept by the tenant did not cause or contribute to the substantial interference;

- (b) in the case of a finding under clause (5a) (b), that the animal kept by the tenant did not cause or contribute to the allergic reaction.

2. The Act is amended by adding the following sections:

Injunctions
and orders
based on "no
pet"
provisions

109a.—(1) No injunction, mandatory order or other order shall be granted against a tenant based on provisions of an agreement respecting the presence, control or behaviour of an animal in or about the rented premises unless the court is satisfied that the tenant is keeping an animal and that,

- (a) the past behaviour of an animal of that species has substantially interfered with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants;
- (b) the presence of an animal of that species has caused the landlord or another tenant to suffer a serious allergic reaction; or
- (c) the presence of an animal of that species or breed is inherently dangerous to the safety of the landlord or the other tenants.

Idem

(2) Even if satisfied that the tenant is keeping an animal and that the criterion set out in clause (1) (a) or the one set out in clause (1) (b) has been met, the judge shall not grant the injunction, mandatory order or other order if he or she is also satisfied,

- (a) in the case of a finding under clause (1) (a), that the animal kept by the tenant did not cause or contribute to the substantial interference;
- (b) in the case of a finding under clause (1) (b), that the animal kept by the tenant did not cause or contribute to the allergic reaction.

"No pet"
provisions
not to be
considered

109b. The provisions of an agreement to which the tenant is a party respecting the presence, control or behaviour of animals and the provisions of similar agreements to which other tenants are parties shall not be considered in determining,

- (a) for the purposes of clauses 109 (1) (c), 109 (5a) (a) and 109a (1) (a), whether there has been substantial interference with the reasonable enjoyment of the premises for all usual purposes by the landlord or the other tenants; or

- (b) for the purposes of clause 109 (1) (d), whether the safety or other *bona fide* and lawful right, privilege or interest of any other tenant in the residential premises has been seriously impaired.

3. Subsections 109 (5a) and (5b) and sections 109a and 109b Transition
of the Act, as enacted by sections 1 and 2 of this Act, apply to every proceeding the hearing of which, including the hearing of an appeal, is completed on or after the day this Act comes into force, even if the proceeding was commenced before that day.

4. This Act comes into force on the day it receives Royal Commencement
Assent.

5. The short title of this Act is the *Landlord and Tenant* Short title
Amendment (Animals) Act, 1990.

Bill 226

An Act to revise the Arbitrations Act

The Hon. I. Scott
Attorney General

Projet de loi 226



Loi portant révision de la Loi sur l'arbitrage

L'honorable I. Scott
procureur général

1st Reading June 19th, 1990
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 19 juin 1990
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The Bill, which replaces the *Arbitrations Act*, is based on the UNCITRAL model law on international commercial arbitration. It resembles a proposed *Uniform Arbitration Act* to be considered by the Uniform Law Conference of Canada.

The guiding principles of the new *Arbitration Act* are that the parties to valid arbitration agreements should abide by their agreements, that they should be free to design the process for their own arbitration as they see fit, within the limits of overall fairness, that opportunities for delay should be minimized and, finally, that awards made in arbitrations should be readily enforceable and should be reviewable only for specific defects.

Some of the important features of the Bill are:

1. The Act applies to all arbitrations conducted under arbitration agreements, unless its application is excluded by law or the *International Commercial Arbitration Act, 1988* applies. Arbitrations under existing agreements are also covered if they are commenced after the Act comes into force. (Arbitrations commenced before that time will continue to be governed by the old law.) The Act also applies, with necessary modifications, to arbitrations conducted under other statutes. (Section 2)
2. The parties to an arbitration agreement are free to design their own arbitration process, subject only to a specific list of compulsory provisions. Section 3 in effect constitutes a general permission to vary or exclude everything outside that list. The fact that parties may agree to vary or exclude particular provisions is generally not repeated elsewhere in the Act. (Section 3)
3. Parties who have objections that arise in the course of arbitration must raise them promptly or risk losing the right to do so. (Section 4)
4. Arbitrations are ultimately subject to judicial supervision. However, the Act does not confer broad discretion on the court to intervene in arbitrations; instead, it describes the specific circumstances in which it may act. (Section 6)
5. An arbitrator must be independent and impartial and must disclose to the parties any circumstances that could cast doubt on his or her independence and impartiality. Procedures for challenging and removing arbitrators are provided. (Sections 11 to 15)
6. Objections to jurisdiction are to be made to the arbitral tribunal in the first instance, then to the court if the arbitral tribunal's resolution of the question is not satisfactory. Objections to the arbitral tribunal's jurisdiction to conduct the arbitration must be made by the beginning of the hearing, and objections that it is exceeding its authority must be made as soon as the relevant matter is raised during the arbitration; however, the arbitral tribunal may permit later objections. (Section 17)
7. The rules of natural justice apply to arbitrations, and the arbitral tribunal determines its own procedure. It is required to decide the dispute before it in accordance with law and may apply rules of equity. (Sections 19, 20 and 31)

NOTES EXPLICATIVES

Le projet de loi, qui remplace la loi intitulée *Arbitrations Act*, s'inspire de la loi type de la CNUDCI sur l'arbitrage commercial international. Il ressemble à une proposition de loi intitulée *Loi uniforme sur l'arbitrage* qui sera étudiée par la Conférence sur l'uniformisation des lois au Canada.

Les principes directeurs de la nouvelle *Loi sur l'arbitrage* sont les suivants : les parties à une convention d'arbitrage sont tenues de respecter leur convention, sauf en cas d'invalidité de celle-ci; les parties doivent pouvoir, à leur gré, concevoir leur propre processus arbitral comme elles le jugent approprié, tout en respectant les principes généraux d'équité; les possibilités de retarder le processus arbitral doivent être réduites au minimum et, enfin, l'exécution des sentences rendues au cours de l'arbitrage doit se faire aisément et leur révision n'être possible que dans le cas de vices précis.

Voici quelques unes des caractéristiques essentielles du projet de loi :

1. La Loi s'applique à tous les arbitrages effectués en vertu de conventions d'arbitrage, à moins que son application ne soit exclue de par la loi ou que la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique. La Loi vise également les arbitrages effectués en vertu de conventions existantes s'ils ont été engagés après la date où elle entre en vigueur. (Les arbitrages engagés avant cette date continuent d'être régis par l'ancienne loi.) En outre, la Loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués en vertu d'autres lois. (Article 2)
2. Les parties à une convention d'arbitrage peuvent, à leur gré, concevoir leur propre processus arbitral, à condition de respecter une liste précise de dispositions obligatoires. L'article 3 constitue en fait une autorisation générale de modifier ou d'exclure toutes les dispositions qui ne figurent pas sur cette liste. La possibilité qu'ont les parties de convenir de modifier ou d'exclure des dispositions particulières n'est le plus souvent pas répétée ailleurs dans la Loi. (Article 3)
3. Les parties qui ont des objections au cours de l'arbitrage doivent les soulever promptement, sinon elles risquent de perdre leur droit d'objection. (Article 4)
4. Les arbitrages sont fondamentalement soumis au contrôle judiciaire. La Loi ne confère toutefois pas au tribunal judiciaire de vastes pouvoirs en matière d'intervention dans les arbitrages; elle décrit plutôt les circonstances particulières dans lesquelles celui-ci peut agir. (Article 6)
5. Un arbitre doit être indépendant et impartial et doit communiquer aux parties toute circonstance susceptible de mettre en doute son indépendance et son impartialité. Des procédures de récusation et de révocation des arbitres sont prévues. (Articles 11 à 15)
6. Les objections touchant la compétence doivent être présentées au tribunal arbitral en première instance, puis au tribunal judiciaire si la résolution de la question n'est pas satisfaisante. Les objections touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doivent être présentées au plus tard au début de l'audience et celles selon lesquelles il outrepassé ses pouvoirs doivent l'être dès que la question pertinente est soulevée pendant l'arbitrage; le tribunal arbitral peut toutefois autoriser la présentation d'objections tardives. (Article 17)
7. Les règles de justice naturelle s'appliquent aux arbitrages, et il appartient au tribunal arbitral de déterminer sa propre procédure. Il est tenu de trancher le différend conformément à la common law et peut appliquer les principes d'équité. (Articles 19, 20 et 31)

8. The award of an arbitral tribunal may be appealed to the Ontario Court (General Division), if the arbitration agreement so permits, or with leave in the case of an appeal on a question of law. It may also be set aside for procedural defects on an application to that court. A party who has not participated in the arbitration has the further remedy of applying to the court, at any stage, for a declaration that the arbitration is invalid. (Sections 45, 46 and 48)
9. Awards made in Ontario or elsewhere in Canada may be enforced by an application to the court. (Section 50)

8. La sentence d'un tribunal arbitral est susceptible d'appel devant la Cour de l'Ontario (Division générale), si la convention d'arbitrage le permet ou sur autorisation dans le cas d'un appel sur une question de droit. Elle peut également être annulée en cas de vices de procédure, sur requête présentée à ce tribunal judiciaire. Une partie qui n'a pas participé à l'arbitrage a le droit, comme recours additionnel, à quelque étape que ce soit, de demander, par voie de requête, au tribunal judiciaire de déclarer nul l'arbitrage par jugement déclaratoire. (Articles 45, 46 et 48)
9. Les sentences rendues en Ontario ou ailleurs au Canada peuvent être exécutées sur simple requête présentée au tribunal judiciaire. (Article 50)

Bill 226**1990****An Act to revise the
Arbitrations Act****CONTENTS**

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Projet de loi 226**1990****Loi portant révision de la
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58. Repeal
59. Commencement
60. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTRODUCTORY MATTERS

Definitions

1. In this Act,

“arbitration agreement” means an agreement by which two or more persons agree to submit to arbitration a dispute that has arisen or may arise between them; (“convention d’arbitrage”)

“arbitrator” includes an umpire; (“arbitre”)

“court”, except in sections 6 and 7, means the Ontario Court (General Division). (“tribunal judiciaire”)

Application of Act to arbitrations conducted under agreements

2.—(1) This Act applies to an arbitration conducted under an arbitration agreement unless,

(a) the application of this Act is excluded by law; or

1988, c. 30

(b) the *International Commercial Arbitration Act, 1988* applies to the arbitration.

Transition, existing agreements

(2) This Act applies to an arbitration conducted under an arbitration agreement made before the day this Act comes into force, if the arbitration is commenced after that day.

Application of Act to arbitrations conducted under statutes

(3) This Act applies with necessary modifications to an arbitration conducted in accordance with another Act, unless that Act provides otherwise; however, in the event of conflict between this Act and the other Act or regulations made under the other Act, the other Act or the regulations prevail.

Article	Article
54. Dépens	57. Intérêts
55. Honoraires et frais de l'arbitre	58. Abrogation
56. Liquidation des dépens, frais et honoraires	59. Entrée en vigueur
	60. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

QUESTIONS PRÉLIMINAIRES

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«arbitre» S'entend en outre d'un surarbitre. («arbitrator»)

«convention d'arbitrage» Convention par laquelle plusieurs personnes conviennent de soumettre à l'arbitrage un différend survenu ou susceptible de survenir entre elles. («arbitration agreement»)

«tribunal judiciaire» Sauf aux articles 6 et 7, s'entend de la Cour de l'Ontario (Division générale). («court»)

2 (1) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage à moins que, selon le cas :

Application de la Loi aux arbitrages effectués en vertu de conventions

a) l'application de la présente loi ne soit exclue de par la loi;

b) la *Loi de 1988 sur l'arbitrage commercial international* ne s'applique à l'arbitrage.

1988, chap. 30

(2) La présente loi s'applique à tout arbitrage effectué en vertu d'une convention d'arbitrage conclue avant la date où la présente loi entre en vigueur, si l'arbitrage est engagé après cette date.

Disposition transitoire, conventions existantes

(3) La présente loi s'applique, avec les adaptations nécessaires, aux arbitrages effectués conformément à une autre loi, sauf disposition contraire de cette loi. Toutefois, en cas de conflit entre la présente loi et l'autre loi ou les règlements pris en application de cette dernière, l'autre loi ou les règlements l'emportent.

Application de la Loi aux arbitrages effectués en vertu d'autres lois

(4) Malgré son abrogation par le paragraphe 58 (1), la loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois

Disposition transitoire : arbitrages déjà engagés

Transition,
arbitrations
already
commenced

(4) Despite its repeal by subsection 58 (1), the *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, continues to apply to arbitrations that are commenced before the day this Act comes into force.

Contracting
out

3. The parties to an arbitration agreement may agree, expressly or by implication, to vary or exclude any provision of this Act except the following:

1. Subsection 5 (4) ("*Scott v. Avery*" clauses).
2. Section 19 (equality and fairness).
3. Section 39 (extension of time limits).
4. Section 46 (setting aside award).
5. Section 48 (declaration of invalidity of arbitration).
6. Section 50 (enforcement of award).

Waiver of
right to
object

4. A party who participates in an arbitration despite being aware of non-compliance with a provision of this Act, except one mentioned in section 3, or with the arbitration agreement, and does not object to the non-compliance within the time limit provided or, if none is provided, within a reasonable time, shall be deemed to have waived the right to object.

Arbitration
agreements

5.—(1) An arbitration agreement may be an independent agreement or part of another agreement.

Further
agreements

(2) If the parties to an arbitration agreement make a further agreement in connection with the arbitration, it shall be deemed to form part of the arbitration agreement.

Oral
agreements

(3) An arbitration agreement need not be in writing.

"*Scott v.*
Avery"
clauses

(4) An agreement requiring or having the effect of requiring that a matter be adjudicated by arbitration before it may be dealt with by a court has the same effect as an arbitration agreement.

refondues de l'Ontario de 1980, continue de s'appliquer aux arbitrages engagés avant la date où la présente loi entre en vigueur.

3 Les parties à une convention d'arbitrage peuvent convenir, expressément ou implicitement, de modifier ou d'exclure une disposition de la présente loi, à l'exception de celles qui suivent :

Exclusion de dispositions

1. Le paragraphe 5 (4) (clauses du type «*Scott c. Avery*»).
2. L'article 19 (égalité et équité).
3. L'article 39 (prorogation du délai).
4. L'article 46 (annulation de la sentence).
5. L'article 48 (déclaration de nullité de l'arbitrage).
6. L'article 50 (exécution de la sentence).

4 Est réputée avoir renoncé à son droit d'objection la partie qui, tout en sachant qu'une disposition de la présente loi, à l'exclusion d'une disposition mentionnée à l'article 3, ou la convention d'arbitrage n'est pas respectée, participe à un arbitrage sans s'opposer à ce non-respect dans le délai prévu ou, s'il n'est pas prévu de délai, dans un délai raisonnable.

Renonciation au droit d'objection

5 (1) La convention d'arbitrage peut constituer une convention distincte ou faire partie d'une autre convention.

Convention d'arbitrage

(2) Si les parties à une convention d'arbitrage concluent une autre convention relativement à l'arbitrage, celle-ci est réputée faire partie de la convention d'arbitrage.

Conventions ultérieures

(3) Il n'est pas nécessaire que la convention d'arbitrage soit sous forme écrite.

Convention verbale

(4) La convention qui exige ou qui a pour effet d'exiger qu'une question soit tranchée par la voie arbitrale avant de pouvoir être portée devant un tribunal judiciaire a le même effet qu'une convention d'arbitrage.

Clauses du type «*Scott c. Avery*»

(5) La convention d'arbitrage ne peut être révoquée que conformément aux règles ordinaires du droit des obligations.

Révocation

Revocation (5) An arbitration agreement may be revoked only in accordance with the ordinary rules of contract law.

COURT INTERVENTION

Court intervention limited **6.** No court shall intervene in matters governed by this Act, except as this Act provides.

Stay **7.**—(1) If a party to an arbitration agreement commences a proceeding in respect of a matter to be submitted to arbitration under the agreement, the court in which the proceeding is commenced shall, on the motion of another party to the arbitration agreement, stay the proceeding.

Exceptions (2) However, the court may refuse to stay the proceeding in any of the following cases:

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid.
3. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
4. The motion was brought with undue delay.
5. The matter is a proper one for default or summary judgment.

Arbitration may continue (3) An arbitration of the dispute may be commenced and continued while the motion is before the court.

Effect of refusal to stay (4) If the court refuses to stay the proceeding,

- (a) no arbitration of the dispute shall be commenced; and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court made its decision is without effect.

Agreement covering part of dispute (5) The court may stay the proceeding with respect to the matters dealt with in the arbitration agreement and allow it to continue with respect to other matters if it finds that,

INTERVENTION DU TRIBUNAL JUDICIAIRE

6 Aucun tribunal judiciaire ne doit intervenir dans les questions régies par la présente loi, sauf dans les cas prévus par celle-ci.

Intervention limitée du tribunal judiciaire

7 (1) Si une partie à une convention d'arbitrage introduit une instance à l'égard d'une question que la convention oblige à soumettre à l'arbitrage, le tribunal judiciaire devant lequel l'instance est introduite doit, sur la motion d'une autre partie à la convention d'arbitrage, surseoir à l'instance.

Sursis

(2) Cependant, le tribunal judiciaire peut refuser de surseoir à l'instance dans l'un ou l'autre des cas suivants :

Exceptions

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle.
3. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
4. La motion a été présentée avec un retard indu.
5. La question est propre à un jugement par défaut ou à un jugement sommaire.

(3) L'arbitrage du différend peut être engagé et poursuivi pendant que la motion est devant le tribunal judiciaire.

Poursuite de l'arbitrage

(4) Si le tribunal judiciaire refuse de surseoir à l'instance :

Conséquences du refus de surseoir

- a) d'une part, aucun arbitrage du différend ne peut être engagé;
- b) d'autre part, l'arbitrage qui a été engagé ne peut être poursuivi, et tout ce qui a été fait dans le cadre de l'arbitrage avant que le tribunal judiciaire ne rende sa décision est sans effet.

(5) Le tribunal judiciaire peut surseoir à l'instance en ce qui touche les questions traitées dans la convention d'arbitrage et permettre qu'elle se poursuive en ce qui touche les autres questions, s'il constate :

Convention s'appliquant à une partie du différend

- a) d'une part, que la convention ne traite que de certaines des questions à l'égard desquelles l'instance a été introduite;

- (a) the agreement deals with only some of the matters in respect of which the proceeding was commenced; and
- (b) it is reasonable to separate the matters dealt with in the agreement from the other matters.

No appeal

- (6) There is no appeal from the court's decision.

Powers of court

8.—(1) The court's powers with respect to the detention, preservation and inspection of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

Questions of law

(2) The arbitral tribunal may determine any question of law that arises during the arbitration; the court may do so on the application of the arbitral tribunal, or on a party's application if the other parties or the arbitral tribunal consent.

Appeal

(3) The court's determination of a question of law may be appealed to the Court of Appeal, with leave.

More than one arbitration

(4) On the application of all the parties to more than one arbitration, the court may order, on such terms as are just,

- (a) that the arbitrations be consolidated;
- (b) that the arbitrations be conducted simultaneously or consecutively; or
- (c) that any of the arbitrations be stayed until any of the others are completed.

Arbitral tribunal for consolidated arbitrations

(5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration; if all the parties agree as to the choice of arbitral tribunal, the court shall appoint it.

Consolidation by agreement of parties

(6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.

- b) d'autre part, qu'il est raisonnable de dissocier les questions traitées dans la convention des autres questions.

(6) La décision du tribunal judiciaire n'est pas susceptible d'appel. Décision sans appel

8 (1) Les pouvoirs du tribunal judiciaire en ce qui concerne la garde, la conservation et l'examen des biens, les injonctions provisoires et la nomination de séquestres sont les mêmes dans le cas d'arbitrages que dans le cas d'actions en justice. Pouvoirs du tribunal judiciaire

(2) Le tribunal arbitral peut statuer sur toute question de droit qui est soulevée au cours de l'arbitrage. Le tribunal judiciaire peut également le faire à la requête du tribunal arbitral, ou à la requête d'une partie, si les autres parties ou le tribunal arbitral y consentent. Questions de droit

(3) La décision du tribunal judiciaire sur une question de droit peut faire l'objet d'un appel devant la Cour d'appel, sur autorisation de celle-ci. Appel

(4) À la requête de toutes les parties à plusieurs arbitrages, le tribunal judiciaire peut ordonner, selon le cas et aux conditions qui sont justes :

Plusieurs arbitrages

- a) que les arbitrages soient joints;
- b) que les arbitrages soient effectués simultanément ou consécutivement;
- c) qu'il soit sursis à l'un des arbitrages jusqu'à ce que l'un ou l'autre des arbitrages soit terminé.

(5) Si le tribunal judiciaire ordonne la jonction d'arbitrages, il peut désigner un tribunal arbitral pour effectuer les arbitrages joints. Si toutes les parties s'entendent sur le choix du tribunal arbitral, le tribunal judiciaire doit le désigner. Tribunal arbitral chargé d'effectuer les arbitrages joints

(6) Le paragraphe (4) n'a pas pour effet d'empêcher les parties à plus d'un arbitrage de s'entendre pour joindre les arbitrages et de prendre toutes les mesures nécessaires à cette fin. Jonction des arbitrages par accord des parties

COMPOSITION DU TRIBUNAL ARBITRAL

9 Si la convention d'arbitrage ne précise pas le nombre d'arbitres qui doivent former le tribunal arbitral, celui-ci se compose d'un seul arbitre. Nombre d'arbitres

COMPOSITION OF ARBITRAL TRIBUNAL

Number of
arbitrators

9. If the arbitration agreement does not specify the number of arbitrators who are to form the arbitral tribunal, it shall be composed of one arbitrator.

Appointment
of arbitral
tribunal

10.—(1) The court may appoint the arbitral tribunal, on a party's application, if,

- (a) the arbitration agreement provides no procedure for appointing the arbitral tribunal; or
- (b) a person with power to appoint the arbitral tribunal has not done so after a party has given the person seven days notice to do so.

No appeal

(2) There is no appeal from the court's appointment of the arbitral tribunal.

More than
one
arbitrator

(3) Subsections (1) and (2) apply with necessary modifications to the appointment of individual members of arbitral tribunals that are composed of more than one arbitrator.

Chair

(4) If the arbitral tribunal is composed of three or more arbitrators, they shall elect a chair from among themselves; if it is composed of two arbitrators, they may do so.

Duty of
arbitrator

11.—(1) An arbitrator shall be independent of the parties and shall act impartially.

Disclosure
before
accepting
appointment

(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which he or she is aware that may give rise to a reasonable apprehension of bias.

Disclosure
during
arbitration

(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose them to all the parties.

No
revocation

12. A party may not revoke the appointment of an arbitrator.

Challenge

13.—(1) A party may challenge an arbitrator only on one of the following grounds:

- 1. Circumstances exist that may give rise to a reasonable apprehension of bias.

10 (1) Le tribunal judiciaire peut désigner le tribunal arbitral, à la requête d'une partie, dans les cas suivants :

Désignation
du tribunal
arbitral

- a) la convention d'arbitrage ne prévoit aucune procédure de désignation du tribunal arbitral;
- b) une personne investie du pouvoir de désigner le tribunal arbitral n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

(2) La désignation du tribunal arbitral par le tribunal judiciaire n'est pas susceptible d'appel.

Désignation
sans appel

(3) Les paragraphes (1) et (2) s'appliquent, avec les adaptations nécessaires, à la désignation de chacun des membres des tribunaux arbitraux qui comprennent plus d'un arbitre.

Cas où il y a
plus d'un arbi-
tre

(4) Si le tribunal arbitral se compose d'au moins trois arbitres, ceux-ci doivent élire un président choisi parmi eux. S'il se compose de deux arbitres, ces derniers peuvent le faire.

Président

11 (1) L'arbitre doit être indépendant des parties et agir en toute impartialité.

Obligations de
l'arbitre

(2) Avant d'accepter sa désignation comme arbitre, la personne désignée doit communiquer à toutes les parties à l'arbitrage toutes les circonstances dont elle a connaissance qui pourraient susciter des craintes raisonnables de partialité.

Divulgarion
avant l'accep-
tation de la
désignation

(3) L'arbitre qui, au cours d'un arbitrage, apprend l'existence de circonstances pouvant susciter des craintes raisonnables de partialité les communique promptement à toutes les parties.

Divulgarion
au cours d'un
arbitrage

12 Une partie ne peut révoquer la désignation d'un arbitre.

Révocation
impossible

13 (1) Une partie ne peut récuser un arbitre que pour l'un des motifs suivants :

Récusation

1. Il existe des circonstances qui peuvent susciter des craintes raisonnables de partialité.
2. L'arbitre ne possède pas les compétences nécessaires dont sont convenues les parties.

(2) Une partie ne peut récuser l'arbitre qu'elle a désigné ou à la désignation duquel elle a participé que pour des motifs dont elle ignorait l'existence au moment de la désignation.

Idem : arbitre
désigné par
une partie

2. The arbitrator does not possess qualifications that the parties have agreed are necessary.

Idem,
arbitrator
appointed by
party

(2) A party who appointed an arbitrator or participated in his or her appointment may challenge the arbitrator only for grounds of which the party was unaware at the time of the appointment.

Procedure for
challenge

(3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge, within fifteen days of becoming aware of them.

Removal or
resignation of
challenged
arbitrator

(4) The other parties may agree to remove the challenged arbitrator, or he or she may resign.

Decision of
arbitral
tribunal

(5) If the challenged arbitrator is not removed by the parties and does not resign, the arbitral tribunal, including the challenged arbitrator, shall decide the issue and shall notify the parties of its decision.

Application
to court

(6) Within ten days of being notified of the arbitral tribunal's decision, a party may make an application to the court to decide the issue and, in the case of the challenging party, to remove the arbitrator.

Arbitration
may continue

(7) While an application is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitration and make an award, unless the court orders otherwise.

Termination
of arbitrator's
mandate

14.—(1) An arbitrator's mandate terminates when,

- (a) the arbitrator resigns;
- (b) the parties agree to terminate it;
- (c) the arbitral tribunal upholds a challenge to the arbitrator, ten days elapse after all the parties are notified of the decision and no application is made to the court; or
- (d) the court removes the arbitrator under subsection 15 (1).

Significance
of resignation
or agreement
to terminate

(2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing him or her.

(3) La partie qui veut récuser un arbitre envoie au tribunal arbitral un énoncé des motifs de la récusation, dans les quinze jours de la date où elle en a appris l'existence.

Procédure de récusation

(4) Les autres parties peuvent convenir de révoquer l'arbitre récusé ou ce dernier peut démissionner.

Révocation ou démission de l'arbitre récusé

(5) Si l'arbitre récusé n'est pas révoqué par les parties et ne démissionne pas, le tribunal arbitral, y compris l'arbitre récusé, tranche le litige et avise les parties de sa décision.

Décision du tribunal arbitral

(6) Dans les dix jours de la date où elle a reçu avis de la décision du tribunal arbitral, une partie peut présenter une requête au tribunal judiciaire pour qu'il tranche le litige et, dans le cas de la partie récusante, pour qu'il révoque l'arbitre.

Requête devant le tribunal judiciaire

(7) En attendant qu'il soit statué sur la requête, le tribunal arbitral, y compris l'arbitre récusé, peut poursuivre l'arbitrage et rendre une sentence, à moins que le tribunal judiciaire n'en ordonne autrement.

Possibilité de poursuivre l'arbitrage

14 (1) Le mandat d'un arbitre prend fin dans les cas suivants :

Fin du mandat de l'arbitre

- a) l'arbitre démissionne;
- b) les parties conviennent d'y mettre fin;
- c) le tribunal arbitral maintient une récusation de l'arbitre, il s'écoule dix jours après que toutes les parties ont été avisées de la décision et aucune requête n'est présentée au tribunal judiciaire;
- d) le tribunal judiciaire révoque l'arbitre aux termes du paragraphe 15 (1).

(2) Le fait qu'un arbitre démissionne ou qu'une partie accepte de mettre fin au mandat d'un arbitre n'implique pas que les motifs avancés pour le récuser ou le révoquer sont considérés comme valides.

Portée de la démission ou de l'accord pour mettre fin au mandat

15 (1) Le tribunal judiciaire peut révoquer un arbitre à la requête d'une partie présentée aux termes du paragraphe 13 (6) (récusation). Il peut également le révoquer à la requête d'une partie si l'arbitre n'est plus en mesure d'exercer ses fonctions, commet un acte vénel ou frauduleux, tarde indûment à effectuer l'arbitrage ou ne l'effectue pas conformément à l'article 19 (égalité et équité).

Révocation de l'arbitre par le tribunal judiciaire

Removal of
arbitrator by
court

15.—(1) The court may remove an arbitrator on a party's application under subsection 13 (6) (challenge), or may do so on a party's application if the arbitrator becomes unable to perform his or her functions, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct it in accordance with section 19 (equality and fairness).

Right of
arbitrator

(2) The arbitrator is entitled to be heard by the court if the application is based on an allegation that he or she committed a corrupt or fraudulent act or delayed unduly in conducting the arbitration.

Directions

(3) When the court removes an arbitrator, it may give directions about the conduct of the arbitration.

Penalty

(4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for his or her services and may order that he or she compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection with the arbitration before his or her removal.

Appeal re
penalty

(5) The arbitrator or a party may, within thirty days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that court.

No other
appeal

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions.

Appointment
of substitute
arbitrator

16.—(1) When an arbitrator's mandate terminates, a substitute arbitrator shall be appointed, following the procedure that was used in the appointment of the arbitrator being replaced.

Court
appointment

(2) The court may appoint the substitute arbitrator, on a party's application, if,

- (a) the arbitration agreement provides no procedure for appointing the substitute arbitrator; or
- (b) a person with power to appoint the substitute arbitrator has not done so after a party has given the person seven days notice to do so.

(2) L'arbitre a le droit d'être entendu par le tribunal judiciaire si la requête est fondée sur l'allégation selon laquelle il a commis un acte vénal ou frauduleux, ou a tardé indûment à effectuer l'arbitrage.

Droit de l'arbitre

(3) Lorsqu'il révoque un arbitre, le tribunal judiciaire peut donner des directives touchant la conduite de l'arbitrage.

Directives

(4) Si le tribunal judiciaire révoque un arbitre pour avoir commis un acte vénal ou frauduleux, ou pour un retard indu, il peut interdire qu'une rémunération lui soit versée en contrepartie de ses services et lui ordonner de dédommager les parties pour tout ou partie des frais, selon la décision du tribunal judiciaire, qu'elles ont engagés relativement à l'arbitrage avant sa révocation.

Peine

(5) L'arbitre ou une partie peut, dans les trente jours de la date où ils ont reçu la décision du tribunal judiciaire, faire appel devant la Cour d'appel, sur autorisation de celle-ci, d'une ordonnance rendue aux termes du paragraphe (4) ou du refus de rendre une telle ordonnance.

Appel relatif à une peine

(6) Sauf disposition contraire du paragraphe (5), ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun autre appel possible

16 (1) Lorsque le mandat d'un arbitre prend fin, un arbitre remplaçant est désigné selon la procédure qui a été suivie pour la désignation de l'arbitre remplacé.

Désignation d'un arbitre remplaçant

(2) Le tribunal judiciaire peut désigner l'arbitre remplaçant, à la requête d'une partie, dans les cas suivants :

Désignation par le tribunal judiciaire

a) la convention d'arbitrage ne prévoit aucune procédure de désignation de l'arbitre remplaçant;

b) la personne investie du pouvoir de désigner l'arbitre remplaçant n'a pas procédé à sa désignation après la remise par une partie d'un préavis de sept jours à cette fin.

(3) Lorsqu'il désigne un arbitre remplaçant, le tribunal judiciaire peut donner des directives touchant la conduite de l'arbitrage.

Directives

(4) Ni la décision ni les directives du tribunal judiciaire ne sont susceptibles d'appel.

Aucun appel possible

- Directions (3) When the court appoints a substitute arbitrator, it may give directions about the conduct of the arbitration.
- No appeal (4) There is no appeal from the court's decision or from its directions.
- Exception (5) This section does not apply if the arbitration agreement provides that the arbitration shall be conducted only by a named arbitrator.

JURISDICTION OF ARBITRAL TRIBUNAL

- Arbitral tribunal may rule on own jurisdiction **17.—**(1) An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.
- Independent agreement (2) If the arbitration agreement forms part of another agreement, it shall, for the purposes of a ruling on jurisdiction, be treated as an independent agreement that may survive even if the main agreement is found to be invalid.
- Time for objections to jurisdiction (3) A party who has an objection to the arbitral tribunal's jurisdiction to conduct the arbitration shall make the objection no later than the beginning of the hearing or, if there is no hearing, no later than the first occasion on which the party submits a statement to the tribunal.
- Party's appointment of arbitrator no bar to objection (4) The fact that a party has appointed or participated in the appointment of an arbitrator does not prevent the party from making an objection to jurisdiction.
- Time for objections that tribunal is exceeding authority (5) A party who has an objection that the arbitral tribunal is exceeding its authority shall make the objection as soon as the matter alleged to be beyond the tribunal's authority is raised during the arbitration.
- Later objections (6) Despite section 4, if the arbitral tribunal considers the delay justified, a party may make an objection after the time limit referred to in subsection (3) or (5), as the case may be, has expired.
- Ruling (7) The arbitral tribunal may rule on an objection as a preliminary question or may deal with it in an award.

(5) Le présent article ne s'applique pas si la convention d'arbitrage prévoit que l'arbitrage ne peut être effectué que par un arbitre donné. Exception

COMPÉTENCE DU TRIBUNAL ARBITRAL

17 (1) Le tribunal arbitral peut statuer sur sa propre compétence en matière de conduite de l'arbitrage et peut, à cet égard, statuer sur les objections relatives à l'existence ou à la validité de la convention d'arbitrage. Possibilité pour le tribunal arbitral de statuer sur sa propre compétence

(2) La convention d'arbitrage qui fait partie d'une autre convention est considérée, aux fins d'une décision sur la compétence, comme une convention distincte pouvant subsister même si la convention principale est déclarée nulle. Convention distincte

(3) Une partie qui a une objection touchant la compétence du tribunal arbitral en matière de conduite de l'arbitrage doit la présenter au plus tard au début de l'audience ou, en l'absence d'audience, au plus tard à la première occasion à laquelle la partie soumet une déclaration au tribunal arbitral. Délai de présentation des objections touchant la compétence

(4) Le fait qu'une partie ait désigné un arbitre ou participé à sa désignation ne l'empêche pas de présenter une objection touchant sa compétence. Objections émanant d'une partie qui a désigné l'arbitre

(5) Une partie qui a une objection selon laquelle le tribunal arbitral outrepassé ses pouvoirs la présente dès que la question qui est prétendue constituer un abus de pouvoir du tribunal judiciaire est soulevée pendant l'arbitrage. Délai de présentation d'objections à un abus de pouvoir du tribunal judiciaire

(6) Malgré l'article 4, une partie peut présenter une objection une fois expiré le délai visé au paragraphe (3) ou (5), selon le cas, si le tribunal arbitral estime le retard justifié. Objections tardives

(7) Le tribunal arbitral peut statuer sur une objection en la traitant comme une question préalable ou peut en traiter dans une sentence. Décision

(8) Si le tribunal arbitral statue sur une objection en la traitant comme une question préalable, une partie peut, dans les trente jours de la date où elle a reçu avis de la décision, présenter une requête au tribunal judiciaire pour qu'il rende une décision sur la question. Révision par le tribunal judiciaire

(9) La décision du tribunal judiciaire n'est pas susceptible d'appel. Aucun appel possible

(10) En attendant qu'il soit statué sur une requête, le tribunal arbitral peut poursuivre l'arbitrage et rendre une sentence. Poursuite de l'arbitrage

Review by
court

(8) If the arbitral tribunal rules on an objection as a preliminary question, a party may, within thirty days after receiving notice of the ruling, make an application to the court to decide the matter.

No appeal

(9) There is no appeal from the court's decision.

Arbitration
may continue

(10) While an application is pending, the arbitral tribunal may continue the arbitration and make an award.

Detention,
preservation
and
inspection of
property and
documents

18.—(1) On a party's request, an arbitral tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the arbitration or as to which a question may arise in the arbitration, and may order a party to provide security in that connection.

Enforcement
by court

(2) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.

CONDUCT OF ARBITRATION

Equality and
fairness

19.—(1) In an arbitration, the parties shall be treated equally and fairly.

Idem

(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.

Procedure

20.—(1) The arbitral tribunal may determine the procedure to be followed in the arbitration, in accordance with this Act.

Idem

(2) An arbitral tribunal that is composed of more than one arbitrator may delegate the determination of questions of procedure to the chair.

Evidence
R.S.O. 1980,
c. 484

21. Sections 14, 15 and 16 (protection of witnesses, evidence at hearings, notice of facts and opinions) of the *Statutory Powers Procedure Act* apply to the arbitration, with necessary modifications.

Time and
place of
arbitration

22.—(1) The arbitral tribunal shall determine the time, date and place of arbitration, taking into consideration the parties' convenience and the other circumstances of the case.

Meetings for
special
purposes

(2) The arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or parties, or for inspecting property or documents.

18 (1) À la demande d'une partie, le tribunal arbitral peut rendre une ordonnance portant sur la garde, la conservation ou l'examen des biens et des documents qui font l'objet de l'arbitrage ou à l'égard desquels une question peut être soulevée au cours de l'arbitrage. Il peut aussi ordonner à une partie de fournir un cautionnement à cet égard.

Garde, conservation et examen de biens et de documents

(2) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.

Exécution par le tribunal judiciaire

CONDUITE DE L'ARBITRAGE

19 (1) Au cours de l'arbitrage, les parties sont traitées sur un pied d'égalité et avec équité.

Égalité et équité

(2) Chaque partie doit avoir la possibilité de présenter son exposé des faits et de répliquer à ceux des autres parties.

Idem

20 (1) Le tribunal arbitral peut déterminer la procédure à suivre au cours de l'arbitrage, conformément à la présente loi.

Procédure

(2) Le tribunal arbitral qui est composé de plus d'un arbitre peut déléguer au président la détermination des questions de procédure.

Idem

21 Les articles 14, 15 et 16 (immunité du témoin, preuve aux audiences, connaissance des faits et des opinions) de la *Loi sur l'exercice des compétences légales* s'appliquent à l'arbitrage, avec les adaptations nécessaires.

Preuves

L.R.O. 1980, chap. 484

22 (1) Le tribunal arbitral décide de la date, de l'heure et du lieu de l'arbitrage, en tenant compte des convenances des parties et des autres circonstances de l'affaire.

Date, heure et lieu de l'arbitrage

(2) Le tribunal arbitral peut se réunir à tout endroit qu'il juge approprié pour la tenue de consultations entre ses membres, pour l'audition des témoins, des experts ou des parties, ou pour l'examen de biens ou de documents.

Réunions à des fins spéciales

23 (1) L'arbitrage peut être engagé de quelque manière reconnue par la loi, y compris les suivantes :

Début de l'arbitrage

1. Une partie à une convention d'arbitrage signifie aux autres parties un avis leur enjoignant de désigner un arbitre ou de participer à sa désignation aux termes de la convention.
2. Si la convention d'arbitrage confère à une personne qui n'est pas une partie le pouvoir de désigner un

Commence-
ment of
arbitration

23.—(1) An arbitration may be commenced in any way recognized by law, including the following:

1. A party to an arbitration agreement serves on the other parties notice to appoint or to participate in the appointment of an arbitrator under the agreement.
2. If the arbitration agreement gives a person who is not a party power to appoint an arbitrator, one party serves notice to exercise that power on the person and serves a copy of the notice on the other parties.
3. A party serves on the other parties a notice demanding arbitration under the agreement.

Exercise of
arbitral
tribunal's
powers
Matters
referred to
arbitration

(2) The arbitral tribunal may exercise its powers when every member has accepted appointment.

24. A notice that commences an arbitration without identifying the dispute shall be deemed to refer to arbitration all disputes that the arbitration agreement entitles the party giving the notice to refer.

Procedural
directions

25.—(1) An arbitral tribunal may require that the claimant and the respondent submit their statements within a specified period of time.

Contents of
statements

(2) The claimant's statement shall indicate the facts supporting the claim, the points at issue and the relief sought, and the respondent's statement shall indicate the respondent's defence.

Documents
and other
evidence

(3) The parties may submit with their statements the documents they consider relevant, or may refer to the documents or other evidence they intend to submit.

Changes to
statements

(4) The parties may amend or supplement their statements during the arbitration; however, the arbitral tribunal may disallow a change that is unduly delayed.

Oral
statements

(5) With the arbitral tribunal's permission, the parties may submit their statements orally.

Directions of
arbitral
tribunal

(6) The parties and persons claiming through or under them shall, subject to any legal objection, comply with the arbitral tribunal's directions, including directions to,

arbitre, une partie signifie à cette personne un avis lui enjoignant d'exercer ce pouvoir et signifie une copie de l'avis aux autres parties.

3. Une partie signifie aux autres parties un avis par lequel elle demande la tenue d'un arbitrage aux termes de la convention.

(2) Le tribunal arbitral peut exercer ses pouvoirs une fois que chacun des membres a accepté sa désignation.

Exercice de ses pouvoirs par le tribunal arbitral

24 L'avis qui introduit une procédure d'arbitrage sans préciser la nature du différend est réputé soumettre à l'arbitrage tous les différends que la convention d'arbitrage autorise la partie qui signifie l'avis à soumettre.

Questions soumises à l'arbitrage

25 (1) Le tribunal arbitral peut exiger du demandeur et du défendeur qu'ils soumettent leur déclaration dans un délai précis.

Directives en matière de procédure

(2) Dans sa déclaration, le demandeur énonce les faits à l'appui de sa demande, les points litigieux et le redressement demandé. Dans la sienne, le défendeur présente sa défense.

Contenu des déclarations

(3) Les parties peuvent soumettre avec leur déclaration les documents qu'elles jugent pertinents ou y faire mention des documents ou autres preuves qu'elles comptent soumettre.

Documents et autres preuves

(4) Les parties peuvent modifier ou compléter leur déclaration au cours de l'arbitrage. Toutefois, le tribunal arbitral peut rejeter tout changement présenté avec un retard indû.

Changements apportés aux déclarations

(5) Sur autorisation du tribunal arbitral, les parties peuvent soumettre leur déclaration oralement.

Déclarations orales

(6) Les parties et leurs ayants droit doivent, sous réserve de toute objection légale, se conformer aux directives du tribunal arbitral, y compris celles voulant :

Directives du tribunal arbitral

- a) qu'elles se soumettent à un interrogatoire sous serment ou sous déclaration solennelle relativement au différend;
- b) qu'elles produisent des dossiers et des documents qui sont en leur possession ou sous leur garde.

(7) Le tribunal judiciaire peut exécuter la directive d'un tribunal arbitral comme s'il s'agissait d'une directive similaire donnée par le tribunal judiciaire dans une action.

Exécution par le tribunal judiciaire

- (a) submit to examination on oath or affirmation with respect to the dispute;
- (b) produce records and documents that are in their possession or power.

Enforcement
by court

(7) The court may enforce the direction of an arbitral tribunal as if it were a similar direction made by the court in an action.

Hearings and
written
proceedings

26.—(1) The arbitral tribunal may conduct the arbitration on the basis of documents or may hold hearings for the presentation of evidence and for oral argument; however, the tribunal shall hold a hearing if a party requests it.

Notice

(2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspection of property or documents.

Communi-
cation to
parties

(3) A party who submits a statement to the arbitral tribunal or supplies the tribunal with any other information shall also communicate it to the other parties.

Idem

(4) The arbitral tribunal shall communicate to the parties any expert reports or other documents on which it may rely in making a decision.

Claimant's
failure to
submit
statement

27.—(1) If the claimant does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the claimant offers a satisfactory explanation, make an award dismissing the claim.

Respondent's
failure to
submit
statement

(2) If the respondent does not submit a statement within the period of time specified under subsection 25 (1), the arbitral tribunal may, unless the respondent offers a satisfactory explanation, continue the arbitration, but shall not treat the failure to submit a statement as an admission of the claimant's allegations.

Party's
failure to
appear or
produce
evidence

(3) If a party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may, unless the party offers a satisfactory explanation, continue the arbitration and make an award on the evidence before it.

Delay

(4) In the case of delay by the claimant, the arbitral tribunal may make an award dismissing the claim or give directions for the speedy determination of the arbitration, and may impose conditions on its decision.

26 (1) Le tribunal arbitral peut effectuer l'arbitrage en se fondant sur des documents ou tenir des audiences aux fins de la production de preuves et de la plaidoirie. Toutefois, si une partie en fait la demande, le tribunal arbitral doit tenir une audience.

Procédure
orale et pro-
cédure écrite

(2) Le tribunal arbitral donne aux parties un préavis suffisant de ses audiences et de ses réunions aux fins de l'examen de biens ou de documents.

Préavis

(3) Toute partie qui soumet une déclaration au tribunal arbitral ou lui fournit d'autres renseignements les communique également aux autres parties.

Communica-
tion aux par-
ties

(4) Le tribunal arbitral communique aux parties tous les rapports d'expert ou autres documents sur lesquels il peut s'appuyer pour rendre une décision.

Idem

27 (1) Si le demandeur ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que le demandeur ne fournisse une explication satisfaisante, rendre une sentence qui rejette la demande.

Cas où le
demandeur ne
soumet pas de
déclaration

(2) Si le défendeur ne soumet pas de déclaration dans le délai précisé en vertu du paragraphe 25 (1), le tribunal arbitral peut, à moins que le défendeur ne fournisse une explication satisfaisante, poursuivre l'arbitrage. Cependant, il ne doit pas considérer le fait qu'il ne soit pas soumis de déclaration comme une reconnaissance des allégations du demandeur.

Cas où le
défendeur ne
soumet pas de
déclaration

(3) Si une partie ne comparaît pas à une audience ou ne produit pas de preuves documentaires, le tribunal arbitral peut, à moins que la partie ne fournisse une explication satisfaisante, poursuivre l'arbitrage et rendre une sentence en se fondant sur les preuves dont il dispose.

Cas où une
partie ne com-
paraît pas ou
ne produit pas
de preuves

(4) En cas de retard du demandeur, le tribunal arbitral peut rendre une sentence qui rejette la demande ou donner des directives en vue d'une résolution expéditive de l'arbitrage, et peut assortir sa décision de conditions.

Retard

28 (1) Le tribunal arbitral peut nommer un expert chargé de lui faire rapport sur des questions précises.

Nomination
d'un expert

(2) Le tribunal arbitral peut exiger des parties qu'elles fournissent à l'expert tous renseignements pertinents ou qu'elles permettent à ce dernier d'examiner des biens ou des documents.

Renseigne-
ments et
documents

Appointment
of expert

28.—(1) An arbitral tribunal may appoint an expert to report to it on specific issues.

Information
and
documents

(2) The arbitral tribunal may require parties to give the expert any relevant information or to allow him or her to inspect property or documents.

Hearing

(3) At the request of a party or of the arbitral tribunal, the expert shall, after making the report, participate in a hearing in which the parties may question the expert and present the testimony of another expert on the subject-matter of the report.

Notice to
witness

29.—(1) A party may serve a person with a notice requiring him or her to attend and give evidence at the arbitration at the time and place named in the notice.

Service of
notice

(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents, and shall be served in the same way.

Power of
arbitral
tribunal

(3) An arbitral tribunal has power to administer an oath or affirmation and power to require a witness to testify under oath or affirmation.

Court orders
and
directions

(4) On the application of a party or of the arbitral tribunal, the court may make orders and give directions with respect to the taking of evidence for an arbitration as if it were a court proceeding.

Restriction

30. No person shall be compelled to produce information, property or documents or to give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

AWARDS AND TERMINATION OF ARBITRATION

Application
of law

31.—(1) An arbitral tribunal shall decide a dispute in accordance with law.

Powers in
equity

(2) The arbitral tribunal may apply rules of equity and may order specific performance, injunctions and other equitable remedies.

Conflict of
laws

32.—(1) In deciding a dispute, an arbitral tribunal shall apply the rules of law designated by the parties or, if none are

(3) À la demande d'une partie ou du tribunal arbitral, l'expert, après avoir préparé son rapport, participe à une audience au cours de laquelle les parties peuvent l'interroger et présenter le témoignage d'un autre expert sur l'objet du rapport.

Audience

29 (1) Une partie peut signifier à une personne un avis exigeant qu'elle compare à l'arbitrage et qu'elle y témoigne aux date, heure et lieu indiqués dans l'avis.

Avis signifié au témoin

(2) L'avis a la même valeur qu'un avis donné dans une instance judiciaire qui exige d'un témoin qu'il compare à une audience ou produise des documents, et est signifié de la même manière.

Signification de l'avis

(3) Un tribunal arbitral a le pouvoir de faire prêter serment ou de recevoir des déclarations solennelles et celui d'exiger d'un témoin qu'il témoigne sous serment ou sous déclaration solennelle.

Pouvoir du tribunal arbitral

(4) À la requête d'une partie ou du tribunal arbitral, le tribunal judiciaire peut rendre des ordonnances et donner des directives concernant l'obtention de preuves dans le cadre d'un arbitrage, comme si l'arbitrage constituait une instance judiciaire.

Ordonnances et directives du tribunal judiciaire

30 Nul ne doit être contraint, au cours d'un arbitrage, de fournir ou de produire des renseignements, des biens, des documents ou un témoignage qu'il ne pourrait être contraint de fournir ou de produire dans une instance judiciaire.

Restriction

SENTENCES ET CLÔTURE DE L'ARBITRAGE

31 (1) Le tribunal arbitral tranche le différend conformément à la loi.

Application de la loi

(2) Le tribunal arbitral peut appliquer les principes d'équité et ordonner des exécutions en nature, prononcer des injonctions et ordonner d'autres redressements reconnus en équité.

Pouvoirs en équité

32 (1) Pour trancher un différend, le tribunal arbitral applique les règles de droit désignées par les parties ou, si elles n'en ont pas désigné, les règles de droit qu'il juge appropriées dans les circonstances.

Conflit de lois

(2) Toute désignation de la loi d'une autorité législative par les parties vise ses règles juridiques de fond et non ses règles de conflit de lois, à moins que les parties n'indiquent expressément que la désignation les comprend également.

Désignation par les parties

designated, the rules of law it considers appropriate in the circumstances.

Designation
by parties

(2) A designation by the parties of the law of a jurisdiction refers to the jurisdiction's substantive law and not to its conflict of laws rules, unless the parties expressly indicate that the designation includes them.

Application
of arbitration
agreement,
contract and
usages of
trade

33. The arbitral tribunal shall decide the dispute in accordance with the arbitration agreement and the contract, if any, under which the dispute arose, and shall also take into account any applicable usages of trade.

Decision of
arbitral
tribunal

34. If an arbitral tribunal is composed of more than one member, a decision of a majority of the members is the arbitral tribunal's decision; however, if there is no majority decision or unanimous decision, the chair's decision governs.

Mediation
and concil-
iation

35.—(1) The members of an arbitral tribunal may, if the parties consent, use mediation, conciliation and similar techniques during the arbitration to encourage settlement of the dispute.

Idem

(2) They may afterwards, if the parties consent, resume their roles as arbitrators without disqualification.

Settlement

36. If the parties settle the dispute during arbitration, the arbitral tribunal shall terminate the arbitration and, if the parties so request and the arbitral tribunal does not object, shall record the settlement in the form of an award.

Binding
nature of
award

37. An award binds the parties, unless it is set aside or varied under section 45 or 46 (appeal, setting aside award).

Form of
award

38.—(1) An award shall be made in writing and, except in the case of an award made on consent, shall state the reasons on which it is based.

Idem

(2) The award shall indicate the place where and the date on which it is made.

Formalities
of execution

(3) The award shall be dated and shall be signed by all the members of the arbitral tribunal, or by a majority of them if an explanation of the omission of the other signatures is included.

Copies

(4) A copy of the award shall be delivered to each party.

33 Le tribunal arbitral tranche le différend conformément à la convention d'arbitrage et au contrat, s'il en est, dans le cadre desquels le différend est survenu, et tient également compte de tout usage du commerce applicable.

Application de la convention d'arbitrage, du contrat et des usages du commerce

34 Si le tribunal arbitral comporte plus d'un membre, une décision prise à la majorité des membres constitue la décision du tribunal arbitral. Toutefois, s'il n'y a pas de décision prise à la majorité ou de décision unanime, c'est la décision du président qui l'emporte.

Décision du tribunal arbitral

35 (1) Les membres du tribunal arbitral peuvent, si les parties y consentent, user, durant l'arbitrage, de techniques de médiation et de conciliation ainsi que de techniques similaires en vue de favoriser un règlement du différend.

Médiation et conciliation

(2) Ils peuvent par la suite, si les parties y consentent, reprendre leur rôle d'arbitres sans être frappés d'incapacité.

Idem

36 Si les parties règlent le différend durant l'arbitrage, le tribunal arbitral met fin à l'arbitrage et, si les parties en font la demande et que le tribunal arbitral n'y voit pas d'objection, constate le règlement par une sentence.

Règlement

37 La sentence lie les parties, à moins qu'elle ne soit annulée ou modifiée en vertu de l'article 45 ou 46 (appel, annulation d'une sentence).

Caractère obligatoire de la sentence

38 (1) La sentence est rendue sous forme écrite et, sauf s'il s'agit d'une sentence rendue par accord des parties, est motivée.

Forme de la sentence

(2) La sentence indique le lieu et la date où elle a été rendue.

Idem

(3) La sentence est datée et signée par tous les membres du tribunal arbitral, ou par la majorité d'entre eux à condition que soit fournie la raison de l'omission des autres signatures.

Modalités d'exécution

(4) Une copie de la sentence est remise à chaque partie.

Copies

39 Le tribunal judiciaire peut proroger le délai dans lequel le tribunal arbitral est tenu de rendre une sentence, même si ce délai a expiré.

Prorogation du délai

40 (1) Une partie peut, dans les trente jours de la date où une sentence lui a été communiquée, demander que le tribunal arbitral donne des explications sur un point quelconque.

Explications

Extension of
time limits

39. The court may extend the time within which the arbitral tribunal is required to make an award, even if the time has expired.

Explanation

40.—(1) A party may, within thirty days after receiving an award, request that the arbitral tribunal explain any matter.

Court order

(2) If the arbitral tribunal does not give an explanation within fifteen days after receiving the request, the court may, on the party's application, order it to do so.

Interim
awards

41. The arbitral tribunal may make one or more interim awards.

More than
one final
award

42. The arbitral tribunal may make more than one final award, disposing of one or more matters referred to arbitration in each award.

Termination
of arbitration

43.—(1) An arbitration is terminated when,

- (a) the arbitral tribunal makes a final award in accordance with this Act, disposing of all matters referred to arbitration;
- (b) the arbitral tribunal terminates the arbitration under subsection (2), (3), 27 (1) (claimant's failure to submit statement) or 27 (4) (delay); or
- (c) an arbitrator's mandate is terminated, if the arbitration agreement provides that the arbitration shall be conducted only by that arbitrator.

Order by
arbitral
tribunal

(2) An arbitral tribunal shall make an order terminating the arbitration if the claimant withdraws the claim, unless the respondent objects to the termination and the arbitral tribunal agrees that the respondent is entitled to obtain a final settlement of the dispute.

Idem

(3) An arbitral tribunal shall make an order terminating the arbitration if,

- (a) the parties agree that the arbitration should be terminated; or
- (b) the arbitral tribunal finds that continuation of the arbitration has become unnecessary or impossible.

(2) Si le tribunal arbitral ne donne pas d'explications dans les quinze jours de la réception de la demande, le tribunal judiciaire peut, à la requête de la partie, lui ordonner de le faire.

Ordonnance
judiciaire

41 Le tribunal arbitral peut rendre une ou plusieurs sentences provisoires.

Sentences pro-
visoires

42 Le tribunal arbitral peut rendre plus d'une sentence définitive et trancher une ou plusieurs questions soumises à l'arbitrage dans chaque sentence.

Plus d'une
sentence défi-
nitive

43 (1) L'arbitrage prend fin dans les circonstances suivantes :

Clôture de
l'arbitrage

- a) le tribunal arbitral rend une sentence définitive conformément à la présente loi, par laquelle sont tranchées toutes les questions soumises à l'arbitrage;
- b) le tribunal arbitral met fin à l'arbitrage aux termes du paragraphe (2), (3), 27 (1) (cas où le demandeur ne soumet pas de déclaration) ou 27 (4) (retard);
- c) le mandat d'un arbitre prend fin, si la convention d'arbitrage prévoit que l'arbitrage ne doit être effectué que par cet arbitre.

(2) Le tribunal arbitral rend une ordonnance mettant fin à l'arbitrage si le demandeur retire sa demande, à moins que le défendeur ne s'oppose à la clôture de l'arbitrage et que le tribunal arbitral ne convienne que le défendeur a droit à un règlement définitif du différend.

Ordonnance
du tribunal
arbitral

(3) Le tribunal arbitral rend une ordonnance qui met fin à l'arbitrage dans les cas suivants :

Idem

- a) les parties conviennent qu'il faut clore l'arbitrage;
- b) le tribunal arbitral estime que la poursuite de l'arbitrage s'avère superflue ou impossible.

(4) L'arbitrage peut être repris pour l'application de l'article 44 (corrections) ou du paragraphe 45 (5) (appel), 46 (7), 46 (8) (annulation d'une sentence) ou 54 (3) (dépens).

Reprise

(5) Le décès d'une partie ne met fin à l'arbitrage qu'en ce qui concerne les demandes qui s'éteignent par suite du décès.

Décès

44 (1) Le tribunal arbitral peut, de son propre chef, dans les trente jours suivant le prononcé de la sentence ou à la

Correction
d'erreurs

Revival

(4) The arbitration may be revived for the purposes of section 44 (corrections) or subsection 45 (5) (appeal), 46 (7), 46 (8) (setting aside award) or 54 (3) (costs).

Death

(5) A party's death terminates the arbitration only with respect to claims that are extinguished as a result of the death.

Correction of errors

44.—(1) An arbitral tribunal may, on its own initiative within thirty days after making an award or at a party's request made within thirty days after receiving the award,

- (a) correct typographical errors, errors of calculation and similar errors in the award; or
- (b) amend the award so as to correct an injustice caused by an oversight on the part of the arbitral tribunal.

Idem

(2) The arbitral tribunal may, on its own initiative at any time or at a party's request made within thirty days after receiving the award, make an additional award to deal with a claim that was presented in the arbitration but omitted from the earlier award.

No hearing necessary

(3) The arbitral tribunal need not hold a hearing or meeting before rejecting a request made under this section.

REMEDIES

Appeal on question of law

45.—(1) A party may appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that,

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal; and
- (b) determination of the question of law at issue will significantly affect the rights of the parties.

Idem

(2) If the arbitration agreement so provides, a party may appeal an award to the court on a question of law.

Appeal on question of fact or mixed fact and law

(3) If the arbitration agreement so provides, a party may appeal an award to the court on a question of fact or on a question of mixed fact and law.

demande d'une partie présentée dans les trente jours de la date où la sentence lui est communiquée :

- a) corriger dans le texte de la sentence des erreurs de typographie, des erreurs de calcul et d'autres erreurs de ce genre;
- b) modifier la sentence de façon à réparer une injustice qu'il aurait causée par inadvertance.

(2) Le tribunal arbitral peut, de son propre chef en tout temps ou à la demande d'une partie présentée dans les trente jours de la date où la sentence lui est communiquée, rendre une sentence additionnelle pour donner suite à une demande qui a été présentée au cours de l'arbitrage, mais omise dans la sentence précédente. Idem

(3) Il n'est pas nécessaire que le tribunal arbitral tienne une audience ou une réunion avant de rejeter une demande présentée aux termes du présent article. Aucune audience nécessaire

RECOURS

45 (1) Une partie peut faire appel d'une sentence devant le tribunal judiciaire relativement à une question de droit, sur autorisation de ce tribunal. Il n'accorde son autorisation que s'il est convaincu : Appel sur une question de droit

- a) d'une part, que l'importance pour les parties des questions en cause dans l'arbitrage justifie un appel;
- b) d'autre part, que le règlement de la question de droit en litige aura une incidence importante sur les droits des parties.

(2) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit. Idem

(3) Si la convention d'arbitrage le prévoit, une partie peut faire appel devant le tribunal judiciaire d'une sentence relativement à une question de droit ou à une question mixte de fait et de droit. Appel sur une question de fait ou une question mixte de droit et de fait

(4) Le tribunal judiciaire peut exiger du tribunal arbitral qu'il donne des explications sur un point quelconque. Pouvoir du tribunal judiciaire

(5) Le tribunal judiciaire peut confirmer, modifier ou annuler la sentence ou la renvoyer devant le tribunal arbitral (accompagnée de l'avis du tribunal judiciaire sur la question Idem

Powers of
court

(4) The court may require the arbitral tribunal to explain any matter.

Idem

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal (with the court's opinion on the question of law, in the case of an appeal on a question of law) and give directions about the conduct of the arbitration.

Setting aside
award

46.—(1) On a party's application, the court may set aside an award on any of the following grounds:

1. A party entered into the arbitration agreement while under a legal incapacity.
2. The arbitration agreement is invalid or has ceased to exist.
3. The award deals with a dispute that the arbitration agreement does not cover or contains a decision on a matter that is beyond the scope of the agreement.
4. The composition of the tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with that matter, was not in accordance with this Act.
5. The subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law.
6. The applicant was not treated equally and fairly, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator.
7. The procedures followed in the arbitration did not comply with this Act.
8. An arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias.
9. The award was obtained by fraud.

Severable
parts of
award

(2) If paragraph 3 of subsection (1) applies and it is reasonable to separate the decisions on matters covered by the arbitration agreement from the impugned ones, the court shall set aside the impugned decisions and allow the others to stand.

de droit, dans le cas d'un appel sur une question de droit) et donner des directives touchant la conduite de l'arbitrage.

46 (1) À la requête d'une partie, le tribunal judiciaire peut annuler une sentence pour l'un des motifs suivants :

Annulation de la sentence

1. Une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique.
2. La convention d'arbitrage est nulle ou a cessé d'exister.
3. La sentence porte sur un différend que la convention d'arbitrage ne prévoit pas, ou comporte une décision sur une question qui dépasse les termes de la convention.
4. La composition du tribunal judiciaire n'était pas conforme à la convention d'arbitrage ou, si la convention ne traitait pas de cette question, n'était pas conforme à la présente loi.
5. L'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario.
6. Le requérant n'a pas été traité sur un pied d'égalité et avec équité, n'a pas eu la possibilité de présenter son exposé des faits ou de répliquer à celui d'une autre partie, ou n'a pas été avisé en bonne et due forme de la tenue de l'arbitrage ou de la désignation d'un arbitre.
7. Les procédures suivies au cours de l'arbitrage n'étaient pas conformes à la présente loi.
8. Un arbitre a commis un acte vénal ou frauduleux, ou il existe des craintes raisonnables de partialité.
9. La sentence a été obtenue frauduleusement.

(2) Si la disposition 3 du paragraphe (1) s'applique et qu'il est raisonnable de dissocier les décisions portant sur des questions prévues par la convention d'arbitrage de celles qui sont attaquées, le tribunal judiciaire annule les décisions attaquées, les autres restant valides.

Parties de la sentence dissociables

(3) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 3 du paragraphe (1) si la partie a donné son accord à l'inclusion du différend ou de la question dans l'arbitrage, a renoncé à son droit de s'opposer à

Restriction

- Restriction (3) The court shall not set aside an award on grounds referred to in paragraph 3 of subsection (1) if the party has agreed to the inclusion of the dispute or matter, waived the right to object to its inclusion or agreed that the arbitral tribunal has power to decide what disputes have been referred to it.
- Idem (4) The court shall not set aside an award on grounds referred to in paragraph 8 of subsection (1) if the party had an opportunity to challenge the arbitrator on those grounds under section 13 before the award was made and did not do so, or if those grounds were the subject of an unsuccessful challenge.
- Deemed waiver (5) The court shall not set aside an award on a ground to which the applicant is deemed under section 4 to have waived the right to object.
- Exception (6) If the ground alleged for setting aside the award could have been raised as an objection to the arbitral tribunal's jurisdiction to conduct the arbitration or as an objection that the arbitral tribunal was exceeding its authority, the court may set the award aside on that ground if it considers the applicant's failure to make an objection in accordance with section 17 justified.
- Connected matters (7) When the court sets aside an award, it may remove the arbitral tribunal or an arbitrator and may give directions about the conduct of the arbitration.
- Court may remit award to arbitral tribunal (8) Instead of setting aside an award, the court may remit it to the arbitral tribunal and give directions about the conduct of the arbitration.
- Time limit **47.**—(1) An appeal of an award or an application to set aside an award shall be commenced within thirty days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based.
- Exception (2) Subsection (1) does not apply if the appellant or applicant alleges corruption or fraud.

son inclusion ou a convenu que le tribunal arbitral avait le pouvoir de déterminer les différends qui lui ont été soumis.

(4) Le tribunal judiciaire ne doit pas annuler une sentence pour des motifs visés à la disposition 8 du paragraphe (1) si la partie avait la possibilité de récuser l'arbitre pour ces motifs en vertu de l'article 13 avant le prononcé de la sentence et s'en est abstenue, ou si ces motifs ont fait l'objet d'une récusation déboutée. Idem

(5) Le tribunal judiciaire ne doit pas annuler une sentence pour un motif au sujet duquel, le requérant est réputé avoir renoncé à son droit d'objection aux termes de l'article 4. Renonciation
réputée

(6) Si le motif allégué pour annuler la sentence aurait pu être soulevé à titre d'objection à la compétence du tribunal arbitral en matière de conduite de l'arbitrage ou à titre d'objection selon laquelle le tribunal arbitral a outrepassé ses pouvoirs, le tribunal judiciaire peut annuler la sentence pour ce motif s'il estime justifié que le requérant n'ait pas présenté d'objection conformément à l'article 17. Exception

(7) Lorsque le tribunal judiciaire annule une sentence, il peut révoquer le tribunal arbitral ou un arbitre et donner des directives touchant la conduite de l'arbitrage. Questions
connexes

(8) Plutôt que d'annuler une sentence, le tribunal judiciaire peut la renvoyer devant le tribunal arbitral et donner des directives touchant la conduite de l'arbitrage. Renvoi de la
sentence
devant le tri-
bunal arbitral
par le tribunal
judiciaire
Délai

47 (1) L'appel d'une sentence ou l'appel relatif à une question de droit doit être interjeté, ou la requête en annulation d'une sentence doit être introduite, dans les trente jours de la date où la sentence, la correction, les explications, le changement ou l'énoncé des motifs sur lesquels porte l'appel ou la requête sont communiqués à l'appelant ou au requérant.

(2) Le paragraphe (1) ne s'applique pas en cas d'allégations par l'appelant ou par le requérant de corruption ou de fraude. Exception

48 (1) À quelque étape que ce soit durant ou après un arbitrage, à la requête d'une partie qui n'a pas participé à l'arbitrage, le tribunal judiciaire peut, par jugement déclaratoire, déclarer nul l'arbitrage pour l'un des motifs suivants : Déclaration
de nullité de
l'arbitrage

- a) une partie a conclu la convention d'arbitrage alors qu'elle était frappée d'incapacité juridique;

Declaration
of invalidity
of arbitration

48.—(1) At any stage during or after an arbitration, on the application of a party who has not participated in the arbitration, the court may grant a declaration that the arbitration is invalid because,

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid or has ceased to exist;
- (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Ontario law; or
- (d) the arbitration agreement does not apply to the dispute.

Injunction

(2) When the court grants the declaration, it may also grant an injunction against the commencement or continuation of the arbitration.

Further
appeal

49. An appeal from the court's decision in an appeal of an award, an application to set aside an award or an application for a declaration of invalidity may be made to the Court of Appeal, with leave of that court.

Application
for
enforcement
of award

50.—(1) A person who is entitled to enforcement of an award made in Ontario or elsewhere in Canada may make an application to the court to that effect.

Formalities

(2) The application shall be made on notice to the person against whom enforcement is sought, in accordance with the rules of court, and shall be supported by the original award or a certified copy.

Duty of
court, award
made in
Ontario

(3) The court shall give a judgment enforcing an award made in Ontario unless,

- (a) the thirty-day period for commencing an appeal or an application to set the award aside has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity; or
- (c) the award has been set aside or the arbitration is the subject of a declaration of invalidity.

- b) la convention d'arbitrage est nulle ou a cessé d'exister;
- c) l'objet du différend ne peut faire l'objet d'un arbitrage aux termes des lois de l'Ontario;
- d) la convention d'arbitrage ne s'applique pas au différend.

(2) Lorsque le tribunal judiciaire rend le jugement déclaratoire, il peut également accorder une injonction interdisant l'engagement ou la poursuite de l'arbitrage. Injonction

49 Il peut être interjeté appel devant la Cour d'appel, sur autorisation de celle-ci, de la décision du tribunal judiciaire rendue à l'égard de l'appel d'une sentence, de la requête en annulation d'une sentence ou de la requête en vue d'obtenir une déclaration de nullité. Nouvel appel

50 (1) Quiconque a droit à l'exécution d'une sentence rendue en Ontario ou ailleurs au Canada peut présenter une requête à cet effet au tribunal judiciaire. Requête pour obtenir l'exécution de la sentence

(2) La requête doit être présentée avec préavis à la personne contre laquelle l'exécution est demandée, conformément aux règles de pratique, et être appuyée par l'original ou par une copie certifiée conforme de la sentence. Formalités

(3) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue en Ontario à moins, selon le cas : Obligation du tribunal judiciaire : sentence rendue en Ontario

- a) que le délai de trente jours imparti pour interjeter appel ou introduire une requête en annulation de la sentence ne soit pas encore écoulé;
- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance;
- c) que la sentence n'ait été annulée ou que l'arbitrage ne fasse l'objet d'une déclaration de nullité.

(4) Le tribunal judiciaire rend un jugement mettant à exécution une sentence rendue ailleurs au Canada à moins, selon le cas : Obligation du tribunal judiciaire : sentence rendue ailleurs au Canada

- a) que le délai pour interjeter appel ou introduire une requête en annulation de la sentence prévu par les lois de la province ou du territoire où a été rendue la sentence ne soit pas encore écoulé;

Duty of
court, award
made
elsewhere in
Canada

(4) The court shall give a judgment enforcing an award made elsewhere in Canada unless,

- (a) the period for commencing an appeal or an application to set the award aside provided by the laws of the province or territory where the award was made has not yet elapsed;
- (b) there is a pending appeal, application to set the award aside or application for a declaration of invalidity in the province or territory where the award was made;
- (c) the award has been set aside in the province or territory where it was made or the arbitration is the subject of a declaration of invalidity granted there; or
- (d) the subject-matter of the award is not capable of being the subject of arbitration under Ontario law.

Pending
proceeding

(5) If the period for commencing an appeal, application to set the award aside or application for a declaration of invalidity has not yet elapsed, or if such a proceeding is pending, the court may,

- (a) enforce the award; or
- (b) order, on such conditions as are just, that enforcement of the award is stayed until the period has elapsed without such a proceeding being commenced, or until the pending proceeding is finally disposed of.

Speedy
disposition of
pending
proceeding

(6) If the court stays the enforcement of an award made in Ontario until a pending proceeding is finally disposed of, it may give directions for the speedy disposition of the proceeding.

Unusual
remedies

(7) If the award gives a remedy that the court does not have jurisdiction to grant or would not grant in a proceeding based on similar circumstances, the court may,

- (a) grant a different remedy requested by the applicant; or
- (b) in the case of an award made in Ontario, remit it to the arbitral tribunal with the court's opinion, in which case the arbitral tribunal may award a different remedy.

- b) qu'un appel, une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité ne soit en instance dans la province ou le territoire où a été rendue la sentence;
- c) que la sentence n'ait été annulée dans la province ou le territoire où elle a été rendue ou que l'arbitrage n'y fasse l'objet d'une déclaration de nullité;
- d) que l'objet de la sentence ne puisse pas faire l'objet d'un arbitrage aux termes des lois de l'Ontario.

(5) Si le délai imparti pour interjeter appel, pour introduire une requête en annulation de la sentence ou une requête en vue d'obtenir une déclaration de nullité n'est pas encore écoulé, ou si une telle instance est en cours, le tribunal judiciaire peut :

Instance en cours

- a) soit exécuter la sentence;
- b) soit ordonner, aux conditions qui sont justes, qu'il soit sursis à l'exécution de la sentence jusqu'à ce que le délai soit écoulé sans qu'une telle instance soit introduite, ou jusqu'à ce que l'instance en cours soit définitivement réglée.

(6) Si le tribunal judiciaire surseoit à l'exécution d'une sentence rendue en Ontario jusqu'à ce que l'instance en cours soit définitivement réglée, il peut donner des directives pour assurer le règlement rapide de l'instance.

Règlement rapide de l'instance en cours

(7) Si la sentence accorde un redressement que le tribunal judiciaire n'a pas compétence pour accorder ou n'accorderait pas dans une instance fondée sur des circonstances similaires, le tribunal judiciaire peut :

Redressements inhabituels

- a) soit accorder un autre redressement, demandé par le requérant;
- b) soit, dans le cas d'une sentence rendue en Ontario, la renvoyer devant le tribunal arbitral accompagnée de l'avis du tribunal judiciaire, auquel cas le tribunal arbitral peut accorder un redressement différent.

(8) Le tribunal judiciaire a les mêmes pouvoirs en ce qui concerne l'exécution des sentences qu'en ce qui concerne celle de ses propres jugements.

Pouvoirs du tribunal judiciaire

Powers of
court

(8) The court has the same powers with respect to the enforcement of awards as with respect to the enforcement of its own judgments.

GENERAL

Crown bound

51. This Act binds the Crown.

Limitation
periods

52.—(1) The law with respect to limitation periods applies to an arbitration as if the arbitration were an action and a claim made in the arbitration were a cause of action.

Preservation
of rights

(2) If the court sets aside an award, terminates an arbitration or declares an arbitration to be invalid, it may order that the period from the commencement of the arbitration to the date of the order shall be excluded from the computation of the time within which an action may be brought on a cause of action that was a claim in the arbitration.

Enforcement
of award

(3) An application for enforcement of an award may not be made more than two years after the day on which the applicant receives the award.

Personal
service of
notice or
document on
individual

53.—(1) A notice or other document may be served on an individual by leaving it with him or her.

Personal
service on
corporation

(2) A notice or other document may be served on a corporation by leaving it with an officer, director or agent of the corporation, or at a place of business of the corporation with a person who appears to be in control or management of the place.

Service by
telephone
transmission
of facsimile

(3) A notice or other document may be served by sending it to the addressee by telephone transmission of a facsimile to the number that the addressee specified in the arbitration agreement or has furnished to the arbitral tribunal.

Service by
mail

(4) If a reasonable effort to serve a notice or other document under subsection (1) or (2) is not successful and it is not possible to serve it under subsection (3), it may be sent by prepaid registered mail to the mailing address that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal or, if none was specified or furnished, to the addressee's last-known place of business or residence.

DISPOSITIONS GÉNÉRALES

51 La présente loi lie la Couronne.

Couronne liée

52 (1) À l'égard des délais de prescription, la loi s'applique à l'arbitrage comme s'il constituait une action et qu'une demande présentée au cours de l'arbitrage constituait une cause d'action.

Délais de prescription

(2) Si le tribunal judiciaire annule une sentence, met fin à un arbitrage ou déclare nul l'arbitrage, il peut ordonner que la période allant du début de l'arbitrage à la date de l'ordonnance ne soit pas comprise dans le calcul du délai dans lequel une action peut être intentée pour une cause d'action qui constituait une demande faisant l'objet de l'arbitrage.

Protection des droits

(3) Une requête en vue d'obtenir l'exécution d'une sentence ne peut être présentée plus de deux ans après la date à laquelle la sentence est communiquée au requérant.

Exécution de la sentence

53 (1) On peut signifier un avis ou autre document à un particulier en le laissant à ce dernier.

Signification à personne d'un avis ou document dans le cas d'un particulier

(2) On peut signifier un avis ou autre document à une personne morale en le laissant à un dirigeant, à un administrateur ou à un mandataire de cette dernière, ou à une personne qui paraît assumer la direction d'un établissement de la personne morale.

Signification à personne dans le cas d'une personne morale

(3) On peut signifier un avis ou autre document en l'envoyant au destinataire par télécopie au numéro que ce dernier a précisé dans la convention d'arbitrage ou fourni au tribunal arbitral.

Signification par télécopie

(4) Si des efforts raisonnables pour signifier un avis ou autre document aux termes du paragraphe (1) ou (2) ne donnent pas de résultat et qu'il n'est pas possible de le signifier aux termes du paragraphe (3), l'avis ou autre document peut être envoyé, par courrier affranchi recommandé, à l'adresse postale que le destinataire a indiquée dans la convention d'arbitrage ou, si aucune n'y est indiquée, à son dernier établissement ou dernier domicile connus.

Signification par la poste

(5) À moins que le destinataire ne démontre qu'en ayant agi de bonne foi, en raison de son absence, d'une maladie ou d'un autre motif indépendant de sa volonté, il n'a reçu l'avis ou autre document qu'à une date ultérieure, l'avis ou autre document est réputé avoir été reçu :

Date de réception réputée

Deemed time
of receipt

(5) Unless the addressee establishes that the addressee, acting in good faith, through absence, illness or other cause beyond the addressee's control failed to receive the notice or other document until a later date, it shall be deemed to have been received,

(a) on the day it is given or transmitted, in the case of service under subsection (1), (2) or (3);

(b) on the fifth day after the day of mailing, in the case of service under subsection (4).

Order for
substituted
service or
dispensing
with service

(6) The court may make an order for substituted service or an order dispensing with service, in the same manner as under the rules of court, if the court is satisfied that it is necessary to serve the notice or other document to commence an arbitration or proceed towards the appointment of an arbitral tribunal and that it is impractical for any reason to effect prompt service under subsection (1), (2), (3) or (4).

Non-
application to
court
proceedings

(7) This section does not apply to the service of documents in respect of court proceedings.

Power to
award costs

54.—(1) An arbitral tribunal may award the costs of an arbitration.

What
constitutes
costs

(2) The costs of an arbitration consist of the parties' legal expenses, the fees and expenses of the arbitral tribunal and any other expenses related to the arbitration.

Request for
award
dealing with
costs

(3) If the arbitral tribunal does not deal with costs in an award, a party may, within thirty days of receiving the award, request that it make a further award dealing with costs.

Absence of
award
dealing with
costs

(4) In the absence of an award dealing with costs, each party is responsible for the party's own legal expenses and for an equal share of the fees and expenses of the arbitral tribunal and of any other expenses related to the arbitration.

Costs
consequences
of failure to
accept offer
to settle

(5) If a party makes an offer to another party to settle the dispute or part of the dispute, the offer is not accepted and the arbitral tribunal's award is no more favourable to the second-named party than was the offer, the arbitral tribunal may take the fact into account in awarding costs in respect of the period from the making of the offer to the making of the award.

- a) à la date de sa remise ou de sa transmission, dans le cas d'une signification effectuée aux termes du paragraphe (1), (2) ou (3);
- b) le cinquième jour qui suit la date de la mise à la poste, dans le cas d'une signification effectuée aux termes du paragraphe (4).

(6) Le tribunal judiciaire peut rendre une ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification de la même manière qu'aux termes des règles de pratique, s'il est convaincu qu'il est nécessaire de signifier l'avis ou autre document pour engager un arbitrage ou procéder à la désignation d'un tribunal arbitral et qu'il est difficile d'effectuer cette signification promptement, pour quelque motif que ce soit, aux termes du paragraphe (1), (2), (3) ou (4).

Ordonnance en vue d'obtenir une signification indirecte ou une dispense de signification

(7) Le présent article ne s'applique pas à la signification de documents effectuée dans le cadre d'instances judiciaires.

Non-application aux instances judiciaires

54 (1) Le tribunal arbitral peut adjuger les dépens d'un arbitrage.

Pouvoir d'adjuger les dépens

(2) Les dépens de l'arbitrage comprennent les frais d'avocat des parties, les honoraires et frais du tribunal arbitral, ainsi que tous les autres frais reliés à l'arbitrage.

Ce qui constitue les dépens

(3) Si le tribunal arbitral ne traite pas des dépens dans sa sentence, une partie peut, dans les trente jours de la date où la sentence lui est communiquée, demander qu'il rende une autre sentence touchant les dépens.

Demande d'une sentence touchant les dépens

(4) En l'absence de sentence touchant les dépens, chaque partie assume ses propres frais d'avocat ainsi qu'une quote-part égale des honoraires et frais du tribunal arbitral et de tous les autres frais reliés à l'arbitrage.

Absence de sentence touchant les dépens

(5) Si une partie présente à une autre partie une offre de règlement du différend ou d'une partie du différend, que l'offre n'est pas acceptée et que la sentence du tribunal arbitral n'est pas plus favorable à la partie nommée en second lieu que ne l'était l'offre, le tribunal arbitral peut tenir compte de ce fait dans l'adjudication des dépens, en ce qui concerne la période allant de la présentation de l'offre au prononcé de la sentence.

Effet sur les dépens de la non-acceptation d'une offre de règlement

(6) Le fait qu'une offre de règlement a été présentée ne doit pas être communiqué au tribunal arbitral avant qu'il n'ait rendu de décision définitive sur tous les aspects du différend à l'exclusion des dépens.

Communication de l'offre au tribunal arbitral

Disclosure of
offer to
arbitral
tribunal

(6) The fact that an offer to settle has been made shall not be communicated to the arbitral tribunal until it has made a final determination of all aspects of the dispute other than costs.

Arbitrator's
fees and
expenses

55. The fees and expenses paid to an arbitrator shall not exceed the fair value of the services performed and the necessary and reasonable expenses actually incurred.

Assessment
of fees and
expenses

56.—(1) A party to an arbitration may have an arbitrator's account for fees and expenses assessed by an assessment officer in the same manner as a solicitor's bill under the *Solicitors Act*.

R.S.O. 1980,
c. 478

Assessment
of costs

(2) If an arbitral tribunal awards costs and directs that they be assessed, or awards costs without fixing the amount or indicating how it is to be ascertained, a party to the arbitration may have the costs assessed by an assessment officer in the same manner as costs under the rules of court.

Idem

(3) In assessing the part of the costs represented by the fees and expenses of the arbitral tribunal, the assessment officer shall apply the same principles as in the assessment of an account under subsection (1).

Account
already paid

(4) Subsection (1) applies even if the account has been paid.

Review by
court

(5) On the application of a party to the arbitration, the court may review an assessment of costs or of an arbitrator's account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

Idem

(6) On the application of an arbitrator, the court may review an assessment of his or her account for fees and expenses and may confirm the assessment, vary it, set it aside or remit it to the assessment officer with directions.

Time for
application
for review

(7) The application for review may not be made after the period specified in the assessment officer's certificate has elapsed or, if no period is specified, more than thirty days after the date of the certificate, unless the court orders otherwise.

55 Les honoraires versés et les frais payés à un arbitre ne doivent pas être supérieurs à la juste valeur des services rendus et aux frais nécessaires et raisonnables effectivement engagés.

Honoraires et
frais de l'arbi-
tre

56 (1) Une partie à un arbitrage peut faire liquider la note d'honoraires et de frais d'un arbitre par un liquidateur des dépens de la même manière que le mémoire d'un procureur aux termes de la *Loi sur les procureurs*.

Liquidation
des honoraires
et frais

L.R.O. 1980,
chap. 478

(2) Si un tribunal arbitral adjuge les dépens et ordonne leur liquidation, ou adjuge les dépens sans en fixer le montant ou sans indiquer comment ce montant doit être établi, une partie à l'arbitrage peut faire liquider les dépens par un liquidateur des dépens de la même manière que pour les dépens aux termes des règles de pratique.

Liquidation
des dépens

(3) En liquidant la partie des dépens que représentent les honoraires et les frais du tribunal arbitral, le liquidateur des dépens met en application les mêmes principes que ceux qui s'appliquent dans le cas de la liquidation d'une note visée au paragraphe (1).

Idem

(4) Le paragraphe (1) s'applique même si la note a déjà été payée.

Note déjà
payée

(5) À la requête d'une partie à l'arbitrage, le tribunal judiciaire peut réviser la liquidation des dépens ou celle de la note d'honoraires et de frais d'un arbitre et peut la confirmer, la modifier, l'annuler ou la renvoyer au liquidateur des dépens en y joignant des directives.

Révision par
le tribunal
judiciaire

(6) À la requête d'un arbitre, le tribunal judiciaire peut réviser la liquidation de sa note d'honoraires et de frais et peut la confirmer, la modifier, l'annuler, ou la renvoyer au liquidateur des dépens en y joignant des directives.

Idem

(7) La requête en révision ne peut être présentée après le délai précisé dans le certificat du liquidateur des dépens ou, si aucun délai n'y est précisé, plus de trente jours après la date du certificat, sauf disposition contraire du tribunal judiciaire.

Délai de pré-
sentation de
la requête en
révision

(8) Lorsque le délai dans lequel une requête en révision peut être présentée expire sans qu'aucune requête soit présentée, ou une fois que le tribunal judiciaire a vérifié la liquidation et a rendu une décision définitive, le certificat peut être déposé auprès du tribunal judiciaire et exécuté comme s'il s'agissait d'un jugement de ce tribunal.

Exécution

- Enforcement (8) When the time during which an application for review may be made has expired and no application has been made, or when the court has reviewed the assessment and made a final determination, the certificate may be filed with the court and enforced as if it were a judgment of the court.
- Interest **57.** Sections 137 to 140 (prejudgment and postjudgment interest) of the *Courts of Justice Act, 1984* apply to an arbitration, with necessary modifications.
- Repeal **58.—(1)** The *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.
- Idem (2) Section 161 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.
- Commence-
ment **59.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **60.** The short title of this Act is the *Arbitration Act, 1990*.

57 Les articles 137 à 140 (intérêts antérieurs et postérieurs au jugement) de la *Loi de 1984 sur les tribunaux judiciaires* s'appliquent, avec les adaptations nécessaires, aux arbitrages. Intérêts

58 (1) La loi intitulée *Arbitrations Act*, qui constitue le chapitre 25 des Lois refondues de l'Ontario de 1980, est abrogée. Abrogation

(2) L'article 161 de la *Loi de 1984 sur les tribunaux judiciaires*, qui constitue le chapitre 11, est abrogé. Idem

59 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

60 Le titre abrégé de la présente loi est *Loi de 1990 sur l'arbitrage*. Titre abrégé

20N
3
56

Bill 227



An Act to amend the Floral Emblem Act

Mr. Sterling

1st Reading June 19th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to amend the *Floral Emblem Act* to make it an offence to wilfully kill, injure, interfere with or take the flower known as the white trillium.

Bill 227**1990****An Act to amend the Floral Emblem Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Floral Emblem Act* is amended by adding the following section: R.S.O. 1980, c. 170

2.—(1) No person shall wilfully kill, injure, interfere with or take or attempt to kill, injure, interfere with or take the white trillium. Prohibition

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200. Offence

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Floral Emblem Amendment Act, 1990*. Short title

Bill 228



An Act to amend the Fire Marshals Act

The Hon. S. Offer
Solicitor General

1st Reading June 20th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

Subsection 2 (1) of the Bill amends subsection 18 (2) of the *Fire Marshals Act* to permit certain orders to be made if an inspection of a building or premises reveals that a fire, once started in the building or premises, would seriously endanger the health or safety of any person or the quality of the natural environment.

Section 3 of the Bill adds sections 18a to 18f to the Act.

Section 18a provides for applications to the Fire Code Commission, by the Fire Marshal or an officer, for authorization to do things required to be done by an order made under the Act. The Commission may give the authorization where the order is not likely to be complied with satisfactorily or where the person to whom the order is directed requests assistance if, in the Commission's opinion, failure to do the thing would seriously endanger the health or safety of any person or the quality of the natural environment.

Section 18b provides that a judicial warrant may be obtained to authorize entry on land for the purpose of doing a thing authorized by the Fire Code Commission.

Section 18c permits the Fire Marshal or an officer to issue an order to pay the costs of doing a thing done in accordance with an authorization of the Fire Code Commission to any person required by an order made under the Act to do the thing.

Section 18d provides for appeals in respect of orders to pay.

Section 18e provides that an order to pay may be filed with the District Court and enforced as an order of the court.

Section 18f provides that costs specified in an order to pay may be collected as municipal taxes.

The Bill also makes certain complementary amendments to the Act.

Bill 228

1990

An Act to amend the Fire Marshals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Fire Marshals Act*, as enacted by the Statutes of Ontario, 1981, chapter 8, section 1, is amended by striking out “18a” in the second line and substituting “18g”. R.S.O. 1980,
c. 166

2.—(1) Subsection 18 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 8, section 2, is further amended by inserting after “contravened” in the amendment of 1981 “or that a fire, once started in or on a building, structure or premises, would seriously endanger the health or safety of any person or the quality of the natural environment for any use that can be made of it”.

(2) Subsection 18 (16) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 8, section 2, is repealed and the following substituted:

(16) Where an order made under subsection (15) relates to a building, other structure or premises in a municipality, the municipality shall have a lien on the building, other structure or premises for amounts spent by the municipality in carrying out the order and the amounts shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector’s roll and collected in the same way and with the same priorities as municipal taxes. Municipal
costs may be
collected as
municipal
taxes

(16a) Where an order made under subsection (15) relates to a building, other structure or premises in a municipality and the Fire Marshal instructs the municipality to recover amounts spent by the Province of Ontario in carrying out the order, the municipality shall have a lien on the land for those amounts and they shall be deemed to be municipal taxes and shall be added by the clerk of the municipality to the collector’s roll and collected in the same way and with the same priorities as municipal taxes. Provincial
costs may be
collected as
municipal
taxes

Idem (16b) A lien created under subsection (16a) in favour of a municipality is not an estate or interest of the Crown within the meaning of clause 9 (5) (b) of the *Municipal Tax Sales Act, 1984*.

1984, c. 48

Idem (16c) Subject to subsection (16e), money collected in accordance with subsection (16a), less the costs reasonably attributable to the collection, shall be paid by the municipality to the Treasurer of Ontario.

Interpre-
tation:
cancellation
price

(16d) In subsections (16e) and (16f), "cancellation price" has the same meaning as in the *Municipal Tax Sales Act, 1984*.

Proceeds of
tax sale

(16e) Where there is a sale of land under the *Municipal Tax Sales Act, 1984* and amounts are payable out of the proceeds to the Treasurer of Ontario under this Act, the *Environmental Protection Act* or the *Ontario Water Resources Act*, those amounts shall not be paid until after payment of all other amounts payable out of the proceeds in respect of the cancellation price of the land.

R.S.O. 1980,
cc. 141, 361

Cancellation
price

(16f) Despite any provision of the *Municipal Tax Sales Act, 1984*, the treasurer of a municipality may sell land under that Act for less than the cancellation price, so long as the land is not sold for less than what the cancellation price would have been but for this Act, the *Environmental Protection Act* and the *Ontario Water Resources Act*, and the purchaser may be declared to be the successful purchaser under the *Municipal Tax Sales Act, 1984*.

(3) Subsection 18 (23) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 8, section 2, is amended by striking out "18a and 18c" in the first line and substituting "18a to 18i".

3. The Act is amended by renumbering sections 18a, 18b and 18c, as enacted by the Statutes of Ontario, 1981, chapter 8, section 3, as sections 18g, 18h and 18i, and by adding the following sections:

Application
for authori-
zation to do
work

18a.—(1) Where an order made under subsection 18 (2), (4) or (8) or amended under subsection 18 (6) or (8) requires a thing to be done, the Fire Marshal or an officer may apply to the Fire Code Commission for an order authorizing him or her to cause the thing to be done, and the Commission shall appoint a time for and hold a hearing.

Commission
may review
order

(2) At a hearing under subsection (1), the Fire Code Commission may consider any matter it could have considered had a hearing been applied for under subsection 18 (7) in respect

of the order requiring the thing to be done, and may exercise any of the powers set out in subsection 18 (8) in respect of that order.

(3) Where an application for a hearing is made under subsection (1) and under subsection 18 (7) in respect of the same order, the Fire Code Commission may, if it considers it practical to do so, consolidate the hearings. Consolidation of hearings

(4) The Fire Code Commission may authorize the Fire Marshal or an officer to cause to be done any thing required to be done by an order made under subsection 18 (2), (4) or (8) or amended under subsection 18 (6) or (8) if, Grounds for decision

- (a) the person required by the order to do the thing,
 - (i) has refused to comply with or is not complying with the order,
 - (ii) is not likely, in the Commission's opinion, to comply with the order promptly,
 - (iii) is not likely, in the Commission's opinion, to carry out the order competently, or
 - (iv) requests the assistance of the Fire Marshal or an officer in complying with the order; and
- (b) in the Commission's opinion, failure to do the thing would seriously endanger the health or safety of any person or the quality of the natural environment for any use that can be made of it.

18b.—(1) Where a justice of the peace is satisfied on evidence under oath that there is reasonable ground to believe that entry on certain land is necessary for the purpose of doing a thing authorized to be done under section 18a, the justice of the peace may issue a warrant authorizing the person named in the warrant to enter and do the thing on the land. Warrant authorizing entry on land

- (2) A warrant issued under subsection (1) shall, Execution and expiry of warrant
 - (a) specify the times, which may be twenty-four hours each day, during which the warrant may be carried out; and
 - (b) state when the warrant expires.

Extension of time	(3) A justice of the peace may extend the date on which a warrant expires for such additional periods as the justice of the peace considers necessary.
Use of force	(4) A person authorized under subsection (1) to enter on land for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.
Assistance	(5) A person named in a warrant issued under subsection (1) may call on any other persons he or she considers advisable to execute the warrant.
Application without notice	(6) A justice of the peace may receive and consider an application for a warrant or extension of a warrant under this section without notice to the owner or occupier of the land.
Identification	(7) On the request of an owner or occupier of the land, a person who exercises a power conferred under subsection (1) shall identify himself or herself and shall explain the purpose of the entry.
Order to pay costs	18c. —(1) The Fire Marshal or an officer may issue an order to pay the costs incurred by the Province of Ontario in doing any thing done in accordance with an authorization given under section 18a to any person required by an order made under section 18 to do the thing.
Idem	(2) An order under subsection (1) to pay costs shall include, <ul style="list-style-type: none">(a) a description of things done in accordance with an authorization given under section 18a;(b) a detailed account of the costs incurred by the Province of Ontario in doing the things; and(c) a direction that the person to whom the order is issued pay the costs to the Treasurer of Ontario.
Appeal to Fire Code Commission	18d. —(1) A person to whom an order to pay costs is issued may, by written notice served on the Fire Marshal or an officer and on the Fire Code Commission within fifteen days after service on the person of a copy of the order, require a hearing by the Commission.
Costs specified in order to pay may be increased by Commission	(2) At a hearing by the Fire Code Commission on an order to pay costs, the Fire Marshal or an officer may, on reasonable notice to all parties, ask the Commission to amend the

order by adding new items of cost or by increasing the amounts set out in the order.

(3) At a hearing by the Fire Code Commission on an order to pay costs, the Commission shall consider only whether any of the costs specified in the order,

What
Commission
may consider
at hearing

(a) do not relate to a thing that the person was required to do by an order made under section 18, as amended by any decision of the Fire Marshal or Fire Code Commission or on any appeal from any such decision; or

(b) are unreasonable having regard to what was done.

(4) Any party to a hearing by the Fire Code Commission on an order to pay costs may appeal from the decision of the Commission to the Divisional Court.

Appeal to
Divisional
Court

(5) Subsections 18 (12) and (13) apply with necessary modifications to an appeal under subsection (4).

Idem

18e.—(1) An order to pay costs may be filed with a local registrar of the District Court and enforced as if it were an order of the court.

Order to pay
may be
enforced as
judgment of
the District
Court

(2) Section 139 of the *Courts of Justice Act, 1984* applies in respect of an order filed with the District Court under subsection (1) and, for the purpose, the date of filing shall be deemed to be the date of the order.

Interest
1984 c. 11

18f.—(1) For the purposes of subsections (2) and (4), a thing done as a result of activities or conditions on land is a thing done in connection with that land, whether or not the work is done on that land.

Interpretation

(2) If an order to pay costs is directed to a person who owns land in a municipality, and the Fire Marshal instructs the municipality to recover amounts specified in the order that relate to things done in connection with that land, the municipality shall have a lien on the land for those amounts and they shall be deemed to be municipal taxes in respect of the land and shall be added by the clerk of the municipality to the collector's roll and collected in the same way and with the same priorities as municipal taxes.

Costs
specified in
order may be
collected as
taxes

(3) Subsections 18 (16b) to (16f) apply with necessary modifications in respect of money collected in accordance with subsection (2).

Idem

Idem,
territory
without
municipal
organization
R.S.O. 1980,
c. 399

(4) If an order to pay costs is directed to a person who owns land in territory without municipal organization and the Fire Marshal instructs the Land Tax Collector appointed under the *Provincial Land Tax Act* to recover amounts specified in the order that relate to work done in connection with that land, the Crown shall have a lien on the land for those amounts and they shall be deemed to be taxes in respect of the land imposed under section 3 of the *Provincial Land Tax Act* and may be collected in the same way and with the same priorities as taxes under that Act.

Fire
Marshal's
instructions
to municip-
ality

(5) An instruction under subsection (2) or (4) shall state which of the amounts specified in the order to pay relate to things done in connection with the land.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Fire Marshals Amendment Act, 1990*.

Bill 229

An Act to amend certain Acts related to Municipalities

The Hon. J. Sweeney
Minister of Municipal Affairs



1st Reading June 26th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill amends numerous statutes related to municipalities. Many of the amendments are of a minor nature or consequential to other changes that have been made to the *Municipal Act*.

The following is a list of some of the more significant substantive changes effected by the Bill.

1. The *Municipal Act* is amended to allow local municipalities to pass by-laws exempting land occupied by non-profit organizations from municipal taxation, excluding local improvement rates, in the circumstances described in the proposed section 363a.

Upper tier municipalities and school boards may similarly authorize an exemption from taxes levied for their purposes.

2. Whether the chairman of the council of the District Council of Muskoka and various other regional municipalities is to be elected at a meeting open or closed to the public is to be determined by by-law of the council. A similar provision is proposed in respect of the warden of the County of Oxford.
3. Under subsection 149 (2) of the *Municipal Act*, Ontario Municipal Board approval is not required for certain undertakings unless debentures are being issued. This provision is being made applicable to The District Municipality of Muskoka, the County of Oxford and each regional municipality.
4. Proposed amendments would allow the council of each regional municipality, including the County of Oxford and The District Municipality of Muskoka, to determine the number of members on its sinking fund committee. A majority of the members of the committee would constitute a quorum.
5. Section 112 of the *Municipal Act* (which prohibits councils from assisting business ventures) would be made applicable to the council of The District Municipality of Muskoka and the council of the County of Oxford.
6. In The Regional Municipality of Durham, the responsibility for the adoption of official plans of area municipalities is no longer to be vested in the Regional Council.
7. The regional municipalities of Peel and York are given the power to establish and operate programs for the reduction, recovery, recycling and reuse of waste and may designate facilities that the area municipalities must use for that purpose.
8. In The Regional Municipality of Hamilton-Wentworth the right to vote on Regional Council would be extended to the chairman. At present the chairman can only vote if there is a tie vote.
9. All references to "reeve" and "deputy-reeve" in the *Municipal Act* have been replaced by "mayor" and "county councillor", respectively. All heads of council would now be called mayors and mayors would sit on county council.
10. The *Local Improvement Act* is amended to remove the requirement that projects be financed by the issue of debentures. The term "borrowing" replaces the concept of debentures and it is defined to include other types of borrowing.
11. Counties are given the same powers as local municipalities have to issue debentures.

12. The current requirement for recording debenture information is expanded to allow the use of a computerized debenture registry for local municipalities and each regional, metropolitan and district municipality and the County of Oxford. Also, the electronic transfer of debenture interest is authorized if the owner of the debenture so requests.
13. The amortization period for debentures issued for any purpose by municipalities, including regional, metropolitan, district municipalities and the County of Oxford, is increased to forty years without the need for O.M.B. approval.
14. The limit on the amount of temporary borrowing for current purposes is changed from 70 per cent of uncollected revenues to 50 per cent of total revenues in all local municipalities and all regional municipalities, including The District Municipality of Muskoka and the County of Oxford. In Metropolitan Toronto the limit is lowered to 50 per cent of total revenues from 70 per cent of total revenues. The amount of borrowing allowed in a year is increased by applying the borrowing limit to each instance of borrowing instead of the total borrowing in an entire year. This will make temporary borrowing provisions the same in all municipalities.
15. Municipalities, including upper tier municipalities, may jointly invest money held in the general fund, capital fund and reserve fund.
16. Municipalities, including regional, district and metropolitan municipalities and the County of Oxford, may lend any securities held by it if the loan is secured.
17. If permitted by regulation, for the purpose of counteracting fluctuations in foreign interest rates and the Canadian dollar, municipalities, including upper tier municipalities, may enter into foreign currency exchange agreements and similar investment vehicles.
18. Authority is given to the Lieutenant Governor in Council, by regulation, to establish bulk borrowing limits to replace the present project-by-project review necessary to obtain approval from the Ontario Municipal Board. This provision is made applicable to local and upper tier municipalities.
19. Townships are to be given the power to apply to the Ontario Municipal Board to dissolve any police village located in the township.

Bill 229

1990

An Act to amend certain Acts related to Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

MUNICIPAL ACT

1. Subsection 13 (7) of the *Municipal Act* is amended,

R.S.O. 1980,
c. 302

- (a) by striking out “reeve” in the eighth line and substituting “mayor”; and
- (b) by striking out “deputy reeves” in the ninth line and substituting “county councillors”.

2.—(1) Subsection 25 (2) of the Act is amended by adding “or” at the end of clause (c) and by adding the following clause:

- (ca) of a township to have a police village, any part of which comprises part of that township dissolved,

.

(2) Clause 25 (7) (a) of the Act is amended by inserting after “clause (2) (a)” in the first line “or (2) (ca)”.

3.—(1) Subsection 27 (1) of the Act is amended by striking out “reeves and deputy reeves” in the second line and substituting “mayors and county councillors”.

(2) Subsection 27 (2) of the Act is amended by striking out “reeve” in the third line and substituting “mayor” and by striking out “reeve and the deputy reeve” in the fifth line and substituting “mayor and county councillor”.

4.—(1) Subsection 28 (1) of the Act is amended by striking out “reeves” in the third line and substituting “mayors” and

by striking out “deputy reeves” in the fifth line and substituting “county councillors”.

(2) Subsection 28 (2) of the Act is amended by striking out “reeve” in the fifth line and substituting “mayor” and by striking out “reeve and the deputy reeve” in the seventh line and substituting “mayor and the county councillor”.

5.—(1) Subsection 29 (1) of the Act is amended by striking out “reeves” in the third line and substituting “mayors”.

(2) Subsection 29 (2) of the Act is amended by striking out “reeve” in the fifth line and substituting “mayor”.

6.—(1) Subsection 32 (1) of the Act is amended by striking out “a reeve, a deputy reeve” in the third line and in the sixth line and substituting in each instance “a county councillor”.

(2) Subsection 32 (2) of the Act is amended by striking out “a reeve, a deputy reeve” wherever it appears and substituting in each instance “a county councillor”.

(3) Subsection 32 (3) of the Act is amended by striking out “a reeve, a deputy reeve” in the second and third lines and substituting “a county councillor”.

7.—(1) Subsection 34 (1) of the Act is amended by striking out “a reeve, a deputy reeve” in the second and third lines and substituting “a mayor, a county councillor”.

(2) Subsection 34 (2) of the Act is amended by striking out “a reeve, a deputy reeve” in the third and fourth lines and substituting “a mayor, a county councillor”.

(3) Subsection 34 (4) of the Act is amended by striking out “reeve” in the third line and substituting “mayor” and by striking out “deputy reeve” in the fourth line and substituting “county councillor”.

(4) Subsection 34 (5) of the Act is amended by striking out “the reeve and one deputy reeve” in the third line and substituting “the mayor and one county councillor”.

(5) Subsection 34 (6) of the Act is amended by striking out “a reeve and deputy reeve” in the third line and substituting “a mayor and county councillor”.

8.—(1) Subsection 35 (1) of the Act is amended by striking out “reeve” in the second line and substituting “mayor”.

(2) Subsection 35 (2) of the Act is amended by striking out “reeve” wherever it appears and substituting in each instance “mayor”.

(3) Subsection 35 (3) of the Act is amended by striking out “reeve” in the third line and substituting “mayor”.

9.—(1) Subsection 36 (1) of the Act is amended by striking out “deputy reeve” in the third line and substituting “county councillor”.

(2) Subsection 36 (4) of the Act is amended by striking out “deputy reeve” in the second line and in the fifth line and substituting in each instance “county councillor”.

10. Clause 39 (f) of the Act is amended by striking out “reeve, deputy reeve” in the second line and substituting “county councillor”.

11. Subsection 39a (1) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 24, section 2, is amended by striking out “reeve or deputy reeve” in the second line and substituting “mayor or county councillor”.

12.—(1) Subsection 42 (1) of the Act is amended by inserting before “warden” in the first line “county”.

(2) Subsection 42 (2) of the Act is amended by inserting before “warden” in the second line “county”.

13. Clause 45 (1) (b) of the Act is amended by striking out “reeve, deputy reeve” in the second and third lines and substituting “county councillor”.

14.—(1) Subsection 51 (1) of the Act is amended by inserting before “warden” in the third line “county”.

(2) Section 51 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 1, is further amended by adding the following subsections:

(1a) Despite subsection (1), the council of a county may, by by-law passed in the first year of its term before electing one of its members to be county warden, provide that the term of office of county warden shall be the term of office of the council of the county. Term

(1b) A by-law passed under subsection (1a) shall not be repealed once a county warden has been elected, until the Restriction on repeal

succeeding council of the county is deemed to be organized under subsection 49 (4).

(3) Subsection 51 (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 31, section 1, is amended by inserting before “warden” in the second line “county”.

(4) Subsection 51 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 31, section 1, is amended by inserting before “warden” in the first line “county”.

(5) Subsection 51 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 31, section 1, is amended by inserting before “warden” in the second line “county”.

15.—(1) Clause 68 (1) (a) of the Act is amended by striking out “reeve and deputy reeve” in the second line and substituting “and county councillor”.

(2) Clause 68 (1) (b) of the Act is amended by striking out “reeve and deputy reeve” in the second line and substituting “and county councillor”.

(3) Subsection 68 (3) of the Act is amended by striking out “reeve who is not the head of council and a deputy reeve” in the fifth line and substituting “county councillor”.

(4) Clause 68 (4) (a) of the Act is repealed and the following substituted:

- (a) in the case of a town, the controller who at the municipal election next preceding the organization of the county council received the highest number of votes shall be deemed to be the county councillor of the town; and

.

(5) Clause 68 (4) (b) of the Act is amended by striking out “deputy reeve” in the second line and in the sixth line and substituting in each instance “county councillor”.

(6) Clause 68 (4) (c) of the Act is amended,

- (a) by striking out “or second highest” in the second and third lines; and
- (b) by striking out “reeve or deputy reeve, as the case may be” in the fifth and sixth lines and substituting “county councillor”.

16. Subsection 72 (1) of the Act is repealed and the following substituted:

(1) The county warden of a county and the mayor of a city, town, village or township is the head of the council and the chief executive officer of the corporation. Head of council

17. Section 75 of the Act is amended,

(a) by adding at the end “or the council of a county”;
and

(b) by adding the following subsection:

(2) Despite subsection (1), if the head of council of a municipality is unable to fulfil his or her duties as a member of the council of a county for a period exceeding one month, the council of the municipality may by by-law appoint one of its members as an alternate representative to the council of the county who shall act in the place of the head of council during the incapacity, but the by-law shall not have effect for a period longer than one month from its effective date. Incapacity

18.—(1) Subsection 80 (1) of the Act is amended by inserting before “warden” in the second line “county”.

(2) Subsection 80 (2) of the Act is amended by inserting before “warden” in the first line “county”.

19.—(1) Subsection 143 (1) of the Act is repealed and the following substituted:

(1) A money by-law shall provide that the whole debt and any debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years. When debenture to be payable

(2) Subsection 143 (4) of the Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 5 and 1982, chapter 50, section 9, is further amended by striking out “local” in the first line.

(3) Paragraph 3 of subsection 143 (13) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(4) Subsection 143 (15) of the Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 9, is further amended by striking out “local” in the second line.

(5) Subsection 143 (16) of the Act is amended by inserting after “cheque” in the third line “or, if authorized in writing by the owner of the debenture, by electronic transfer”.

(6) Subsection 143 (17) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

20.—(1) Subsection 143a (1) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 24, section 6 and amended by 1982, chapter 50, section 10, is repealed and the following substituted:

Extendible
and
retractable
term
debentures

(1) Notwithstanding any other provision of this Act, a municipality may provide in any money by-law for the issuing of debentures that all or a portion of the debentures to be issued shall be payable at a fixed date with interest payable annually or semi-annually, but the municipality shall,

- (a) extend the term of all or any of the debentures at the request of the holder given to the treasurer of the municipality at any times fixed in the by-law before the maturity date of the debentures and subject to any conditions that may be set out in the by-law, which debentures shall be known as extendible term debentures; or
- (b) if the debentures have a maturity date longer than five years, redeem all or any of the debentures at the request of the holder at earlier dates than fixed in the by-law subject to any conditions that may be set out in the by-law, which debentures shall be known as retractable term debentures.

(2) Subsection 143a (3) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 24, section 6, is amended by striking out “Debenture Registry Book” in the seventh line and substituting “debenture registry”.

21.—(1) Clause 144 (a) of the Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 11, is further amended by striking out “local” in the first line.

(2) Clause 144 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

22.—(1) Subsection 146 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 12, is repealed and the following substituted:

(1) Notwithstanding section 143, a municipality may provide in any money by-law for the issuing of sinking fund debentures in which the principal is payable on a fixed date and interest is payable annually or semi-annually.

Sinking fund
debentures

(2) Section 146 of the Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 7 and 1982, chapter 50, section 12, is further amended by adding the following subsections:

(2a) If a by-law passed under this section authorizes sinking fund debentures to be issued that fully mature more than five years after the issue date, the by-law may authorize the issuing of debentures to refund at maturity the outstanding sinking fund debentures.

Refunding
debentures

(2b) The refunding debentures shall be made payable for a term not to exceed the maximum time period approved by the Municipal Board for the repayment of the original sinking fund debentures, commencing on the date the original debentures were issued.

Term

(2c) If refunding debentures are issued, it is not necessary to raise by special rate in the year of maturity of the outstanding debentures the principal that is being refunded.

Effect

(2d) The principal and interest payable under subsection (2a) shall be raised in accordance with subsection (2).

Rates
imposed

23. Subsection 147 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 13, is repealed and the following substituted:

(1) Notwithstanding any other provision of this Act, a municipality may provide in any money by-law for the issuing of term debentures wherein a portion of the debentures to be issued are payable on a fixed date with interest payable annually or semi-annually.

Term
debentures

24. The Act is amended by adding the following section:

147a. A money by-law passed by a county for the issuing of debentures under this Part shall provide for the raising of the amount payable for principal and interest under the by-law by including it with the amount required for county purposes apportioned under section 365 and not as otherwise provided in this Part.

Payment of
debentures

25.—(1) Subsection 148 (1) of the Act is repealed and the following substituted:

Debentures
expressed in
foreign
currency

(1) Any power conferred upon a municipality to borrow or raise money and to issue debentures therefor,

- (a) includes the power, in respect of prescribed municipalities, to issue the debentures expressed and payable in a prescribed currency other than that of Canada; and
- (b) shall be deemed to have always included the power to issue the debentures expressed and payable in sterling money of Great Britain or dollars of the United States of America.

(2) Subsection 148 (2) of the Act is amended by striking out “sterling or dollars of the United States of America” in the third line and substituting “a currency other than that of Canada”.

(3) Subsection 148 (4) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 18, is repealed and the following substituted:

Regulations

(4) The Lieutenant Governor in Council may by regulation prescribe,

- (a) the foreign currencies in which debentures may be issued by a municipality, including a regional, district and metropolitan municipality and the County of Oxford; and
- (b) the municipalities or class of municipalities, including regional, district and metropolitan municipalities and the County of Oxford, that may issue foreign currency debentures.

26. Section 149 of the Act, as amended by the Statutes of Ontario, 1982, chapter 50, section 14 and 1988, chapter 31, section 4, is further amended by adding the following subsections:

Bulk
borrowing
limits

(4) The Lieutenant Governor in Council may make regulations prescribing bulk borrowing limits for municipalities, including,

- (a) defining the types of debt to which the bulk borrowing limit applies;
- (b) prescribing the amount to which the debts under clause (a) shall be limited;

- (c) requiring a municipality to apply for the approval of the Municipal Board for each specific work, the amount of debt for which, when added to the total amount of any outstanding debt under clause (a), causes the limit under clause (b) to be exceeded; and
- (d) prescribing procedures for the determination of the bulk borrowing limit of a municipality, including the payment of fees.

(5) Sections 64 and 65 of the *Ontario Municipal Board Act* do not apply to any debt defined under clause (4) (a) if it does not cause the municipality to exceed the limit prescribed under clause (4) (b). O.M.B. approval not required
R.S.O. 1980, c. 347

27. The Act is further amended by adding the following section:

164a.—(1) In this section, “municipality” includes a regional, district or metropolitan municipality and the County of Oxford. Definition

(2) A municipality may by by-law provide that interest earned on money held in a reserve under subsection 164 (2) shall form part of that reserve. Interest on reserves

28. Section 169 of the Act, as amended by the Statutes of Ontario, 1982, chapter 24, section 8, is further amended by adding the following subsections:

(3) A municipality may jointly invest money held in the general fund, a capital fund and a reserve fund. Joint investments

(4) Money shall not be invested jointly under subsection (3) in any securities in which money from any one of the funds cannot be invested. Limitation

(5) Earnings from the joint investment shall be credited to the separate funds in proportion to the amount invested from those funds. Apportionment of earnings

29. The Act is further amended by adding the following sections:

169a. A municipality may lend any securities held by it if the loan is secured by cash or by other securities described in clause 169 (2) (a). Loan of securities

Risks related
to foreign
currencies

169b.—(1) For the purpose of counteracting the risk associated with the issuing of its debentures in currencies other than that of Canada due to fluctuations in foreign interest rates and in the rate of exchange between the Canadian dollar and other currencies, a prescribed municipality may,

- (a) enter into foreign currency exchange agreements;
- (b) enter into interest rate exchange agreements;
- (c) purchase spot and foreign currency contracts; and
- (d) purchase other securities, financial contracts and investments authorized by the Lieutenant Governor in Council.

Prescribed
currencies

(2) An agreement or contract under clauses (1) (a) to (c) is limited to the currencies prescribed under subsection 148 (4).

Regulations

(3) The Lieutenant Governor in Council may make regulations,

- (a) prescribing municipalities, including regional, metropolitan and district municipalities and the County of Oxford, or classes of municipalities which may exercise the powers described in subsection (1);
- (b) establishing the conditions under which an exchange of securities under subsection (1) may occur;
- (c) prescribing the persons with whom the municipality may exchange currencies;
- (d) requiring the municipality or class of municipalities that has invested in foreign securities to protect itself from currency fluctuations in the manner prescribed.

Investments
through
agents

169c.—(1) A power given to a municipality to invest money includes the power to invest the money through an agent of the municipality.

Limitation

(2) Subsection (1) does not apply to money invested for the purpose of paying the principal and interest of sinking fund debentures.

Joint
investments

169d.—(1) A power given to a municipality under this Act to invest money includes the power to enter into an agreement with any other municipality, including a metropolitan, regional or district municipality or the County of Oxford,

for the joint investment of money by the municipalities or an agent of the municipalities.

(2) Money may be jointly invested only in those securities in which a single municipality may invest. Limitation

(3) This section does not apply to the investment of money for the purpose of paying the principal and interest of sinking fund debentures. Exception

30. Subsection 181 (3) of the Act is repealed and the following substituted:

(3) The signature of the head of the council, the deputy-treasurer and the treasurer of the corporation to sign or countersign all debentures or similar instruments issued by the corporation may be written, engraved, lithographed, printed or otherwise mechanically reproduced. Execution of debentures

31.—(1) Subsection 183 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the sixth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the tenth and eleventh lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the thirteenth line.

(2) Subsection 183 (3) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

(3) Subsection 183 (4) of the Act is repealed and the following substituted:

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture. Registration of debenture

(4) Subsection 183 (5) of the Act is amended by striking out “Debenture Registry Book” in the second and third lines and substituting “debenture registry”.

32. The Act is further amended by adding the following section:

Records
storage

183a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 183 (1).
2. Names and addresses of the owners of registered debentures under sections 143, 143a and 144.
3. Particulars of the cancellation and destruction of debentures under subsection 143 (17) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 183 (1).

Idem

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

33.—(1) Section 189 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 6, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 189 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total".

(3) Section 189 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(4a) For the purposes of subsections (2) and (4), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

34. Section 190 of the Act is repealed and the following substituted:

190.—(1) If a municipality has by by-law approved an undertaking to be financed in whole or in part by incurring long-term debt, the council may by by-law authorize temporary borrowing to meet expenditures, other than the current expenditures for which borrowing is otherwise allowed under this Act, incurred in connection with the undertaking. Temporary borrowing

(2) At the time that any amount is borrowed under this section, the treasurer shall give to the lender a copy of the by-law authorizing the temporary borrowing. Documents to lender

(3) The proceeds of every loan obtained under this section shall be applied for the purposes of the undertaking approved by the by-law. Use of loan proceeds

35. Subsection 196 (5) of the Act is amended by striking out “or reeve” in the tenth and eleventh lines.

36. Paragraph 58 of section 210 of the Act is amended by striking out “reeve” in the fourth line and substituting “mayor”.

37. Subsection 314 (2) of the Act is amended by inserting before “warden” in the fifth line “county”.

38. Subsection 358 (7) of the Act is amended by striking out “or reeve” in the third line.

39. The Act is further amended by adding the following section:

363a.—(1) In this section, “upper tier municipality” means a county, a district, regional or metropolitan municipality and the County of Oxford. Definition

(2) The council of a local municipality may pass by-laws exempting land from municipal taxation, excluding local improvement rates, if, By-laws respecting tax exemptions

- (a) the land is owned by an organization to which subsection (3) applies and is occupied by it for its own purposes; or
- (b) the land is rented and occupied for its own purposes by an organization to which subsection (3) applies from an organization that is exempt from municipal taxation under this or any other Act.

(3) An organization is eligible for an exemption under subsection (2), if, Eligibility

R.S.O. 1980,
c. 95
R.S.C. 1970,
c. C-32

(a) it is a corporation to which Part III of the *Corporations Act* applies or to which Part II of the *Canada Corporations Act* applies;

R.S.C. 1952,
c. 148

(b) it is a registered charity within the meaning of the *Income Tax Act* (Canada); or

R.S.O. 1980,
c. 65

(c) it is required to give notice to the Public Trustee under the *Charities Accounting Act*.

Restriction

(4) The council of a municipality shall not pass a by-law under subsection (2) in respect of a particular organization unless council is of the opinion,

(a) that the organization provides a service or benefit to the municipality; and

(b) that the organization has demonstrated a need for financial assistance.

Limitation of
by-law

(5) A by-law made under subsection (2) expires with the term of the council that passed it.

Other taxes

(6) If land is exempted from municipal taxation under subsection (2) or any other Act, an upper tier municipality or a school board, or both, may, by resolution, direct the local municipality to exempt that land from taxation for upper tier or school board purposes, respectively.

Notification

(7) The upper tier municipality or school board shall forward a copy of the resolution to the local municipality.

Further
exemption

(8) A local municipality that receives a copy of a resolution shall by by-law exempt the land from taxation for upper tier or school purposes as applicable.

Duties of
clerk

(9) The clerk of the local municipality,

(a) shall cancel the taxes owing on exempted land in accordance with the by-laws made under this section; and

(b) shall notify the assessment commissioner of the contents of the by-laws.

Exclusion

(10) No exemption may be granted under this section in respect of any portion of land that is subject to business assessment under section 7 of the *Assessment Act*.

R.S.O. 1980,
c. 31

(11) An exemption of land under this section shall not be interpreted as an exemption under section 3 of the *Assessment Act*. Status unaffected

40. Subsection 387 (6) of the Act is amended by striking out “or reeve” in the ninth line and by striking out “reeve” in the tenth line.

41. Form 2 of the Act is repealed and the following substituted:

FORM 2

(Section 50)

Certificate of Clerk as to Election
of Mayor and County Councillor (if any)

I, A.B., of, Clerk of The Corporation of the
..... in the County of
do hereby certify under my hand and the seal of the Corporation that X.Y.
was duly elected mayor (or county councillor) of the town (township or vil-
lage, as the case may be), and has made and subscribed the declaration of
office and qualification as such mayor (or county councillor).

.....
A.B.

DISTRICT MUNICIPALITY OF MUSKOKA ACT

42. Section 6a of the *District Municipality of Muskoka Act*, as enacted by the Statutes of Ontario, 1986, chapter 48, section 1, is amended by adding the following subsection: R.S.O. 1980,
c. 121

(1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the District Council before the election. Manner of
election
R.S.O. 1980,
c. 302

43. Section 62 of the Act is repealed.

44. Subsection 72 (1) of the Act is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the District Corporation. Investment of
money
R.S.O. 1980,
c. 302

45.—(1) Section 83 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 18, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 83 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 83 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

46. Section 85 of the Act is amended by adding the following subsection:

Borrowing
limits
R.S.O. 1980,
c. 302

(1a) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the District Corporation.

47. The Act is amended by adding the following section:

Temporary
borrowing

87a. Section 190 of the *Municipal Act* applies with necessary modifications to the District Corporation.

48.—(1) Subsection 88 (3) of the Act is repealed and the following substituted:

When
debenture to
be payable

(3) A money by-law shall provide that the whole debt and any debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Paragraph 3 of subsection 88 (19) of the Act is amended by striking out "Debenture Registry Book" in the last line and substituting "debenture registry".

(3) Subsection 88 (20) of the Act is repealed and the following substituted:

Currency

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the District Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

R.S.O. 1980,
c. 302

(4) Subsection 88 (21) of the Act is amended by striking out “lawful money of the United States of America or of Great Britain” in the third and fourth lines and substituting “a currency other than that of Canada”.

(5) Subsection 88 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 5, section 10, is amended by striking out “described in clause (20) (b) or (c)” in the second and third lines and substituting “other than that of Canada”.

(6) Section 88 of the Act, as amended by the Statutes of Ontario, 1982, chapter 5, section 10, 1983, chapter 65, section 5, 1986, chapter 48, section 8 and 1989, chapter 72, section 50, is further amended by adding the following subsection:

(21b) The Lieutenant Governor in Council may by regulation prescribe or restrict the foreign currencies in which debentures may be issued by the District Corporation.

Regulations

(7) Subsection 88 (24) of the Act is amended by striking out “two members appointed by the District Council, and the two” in the third and fourth lines and substituting “such other members appointed by the District Council as it considers appropriate and the”.

(8) Subsection 88 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

49. Clause 89 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

50. Section 89a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 5, section 11, is repealed and the following substituted:

89a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the District Corporation.

Provisions of
R. S. O. 1980,
c. 302 apply

51. Subsections 95 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debenture or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical
reproduction
of signatures

(4) The seal of the District Corporation when engraved, lithographed, printed or otherwise mechanically reproduced

Effect of
mechanical
reproduction

has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when so engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person authorized to sign respectively and is binding upon the District Corporation.

52.—(1) Subsection 97 (1) of the Act is amended,

- (a) by striking out “**Debenture Registry Book**” in the tenth line and substituting “**debenture registry**”;
- (b) by striking out “**enter in a book, to be called the Debenture Registry Book**” in the eighteenth and nineteenth lines and substituting “**record in a debenture registry**”; and
- (c) by striking out “**in such book**” in the twenty-first line.

(2) Subsection 97 (3) of the Act is amended by striking out “**Debenture Registry Book**” in the fifth and sixth lines and substituting “**debenture registry**”.

(3) Subsection 97 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 97 (5) of the Act is amended by striking out “**Debenture Registry Book**” in the third line and substituting “**debenture registry**”.

53. The Act is further amended by adding the following section:

Records
storage

97a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 97 (1).
2. Names and addresses of the owners of registered debentures.

3. Particulars of the cancellation and destruction of debentures under subsection 99 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 97 (1). Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

54. Subsection 99 (4) of the Act is amended by striking out “Debenture Registry Book” in the third and fourth lines and in the fifth line and substituting in each instance “debenture registry”.

55. Subsection 108 (1) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 48, section 9 and amended by 1988, chapter 31, section 18, is further amended by inserting after “106” in the second line “112”.

MUNICIPALITY OF METROPOLITAN TORONTO ACT

56. Section 217 of the *Municipality of Metropolitan Toronto Act*, as amended by the Statutes of Ontario, 1982, chapter 29, section 10, is further amended by adding the following subsections: R.S.O. 1980,
c. 314

(4) Sections 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation. Investment of
money
R.S.O. 1980,
c. 302

(5) The Metropolitan Corporation may jointly invest money held in the general fund, a capital fund and a reserve fund. Joint
investments

(6) Money shall not be invested jointly under subsection (5) in any securities in which money from any one of the funds cannot be invested. Limitation

(7) Earnings from the joint investment shall be credited to the separate funds in proportion to the amount invested from those funds. Apportion-
ment of
earnings

57.—(1) Section 222 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 19, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 222 (2) of the Act is repealed and the following substituted:

Limit upon
borrowings

(2) The amount that may be borrowed at any one time for the purposes mentioned in subsection (1) shall not, except with the approval of the Municipal Board, exceed 50 per cent of the total amount of the estimated revenues of the Metropolitan Corporation as set forth in the estimates adopted for the year.

58. Subsection 224 (4) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 78, section 16, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

(4) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

59. The Act is amended by adding the following section:

Temporary
borrowing

226a. Section 190 of the *Municipal Act* applies with necessary modifications to the Metropolitan Corporation.

60.—(1) Subsection 227 (3) of the Act is repealed and the following substituted:

When
debentures to
be payable

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Subsection 227 (16) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 29, section 12, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

(16) Subsections 143 (4) and (16), sections 143a, 144 and 145 and subsections 146 (2a) to (2c), 147 (1) and (2) of the *Municipal Act* apply with necessary modifications to the Metropolitan Corporation.

(3) Paragraph 3 of subsection 227 (19) of the Act is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(4) Subsection 227 (20) is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Metropolitan Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

Currency

R.S.O. 1980,
c. 302

(5) Subsection 227 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 29, section 12, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

61. Subsections 233 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical
reproduction
of signatures

(4) The seal of the Metropolitan Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person so authorized to sign respectively and is binding upon the Metropolitan Corporation.

Effect of
mechanical
reproduction

62.—(1) Subsection 235 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the ninth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the eighteenth line.

(2) Subsection 235 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth line and substituting “debenture registry”.

(3) Subsection 235 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

63. The Act is further amended by adding the following section:

Records
storage

235a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 235 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 237 (4) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 235 (1).

Idem

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

64. Subsection 237 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

COUNTY OF OXFORD ACT

R.S.O. 1980,
c. 365

65. Section 9 of the *County of Oxford Act* is amended by adding the following subsection:

Manner of
election

R.S.O. 1980,
c. 302

(1a) Despite section 62 of the *Municipal Act*, the warden

shall be elected in the manner provided by by-law passed by the County Council before the election.

66. Subsection 84 (1) of the Act is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the County.

Investment of
money
R.S.O. 1980,
c. 302

67.—(1) Section 92 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 20, is further amended by adding the following subsection:

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

Borrowing
from reserve
funds

(2) Subsection 92 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fourth and fifth lines and substituting "50 per cent of the total amount".

(3) Section 92 is further amended by adding the following subsection:

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

Exclusion
from
estimated
revenues

68. Section 95 of the Act is amended by adding the following subsection:

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the County.

Provisions of
R.S.O. 1980,
c. 302 apply

69. The Act is amended by adding the following section:

97a. Section 190 of the *Municipal Act* applies with necessary modifications to the County.

Temporary
borrowing

70.—(1) Subsection 98 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When
debentures to
be payable

(2) Paragraph 3 of subsection 98 (19) is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(3) Subsection 98 (20) of the Act is repealed and the following substituted:

Currency

R.S.O. 1980,
c. 302

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the County is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

(4) Subsection 98 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 25, section 8, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 98 (24) of the Act is amended by striking out “two members appointed by the County Council, and the two” in the third and fourth lines and substituting “such other members appointed by the County Council as it considers appropriate and the”.

(6) Subsection 98 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

71. Clause 99 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

72. Section 99a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 25, section 9, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

99a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the County.

73. Subsections 105 (3) and (4) of the Act are repealed and the following substituted:

Mechanical
reproduction
of signatures

(3) The signature of the treasurer, warden or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the County when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, warden or such other person authorized by by-law to sign or countersign the debentures or other like instruments when so engraved, lithographed, printed or otherwise mechanically

reproduced shall be deemed the signature of the treasurer, warden or other person so authorized to sign respectively and is binding upon the County.

74.—(1) Subsection 107 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the ninth and tenth lines and substituting “debenture registry”;
- (b) by striking out “enter in a book to be called the Debenture Registry Book” in the seventeenth and eighteenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the twentieth line.

(2) Subsection 107 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 107 (4) of the Act is repealed and the following substituted:

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

Registration
of debenture

(4) Subsection 107 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

75. The Act is further amended by adding the following section:

107a.—(1) The following records may be kept electronically or by using a magnetic medium:

Records
storage

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 107 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 109 (4) and the issuance of any new debentures in exchange.

Admissibility (2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 107 (1).

Idem (3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

76. Subsection 109 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

77. Subsection 117 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 66, section 6 and amended by 1988, chapter 31, section 20, is further amended by inserting after “109” in the second line “112”.

REGIONAL MUNICIPALITY OF DURHAM ACT

R.S.O. 1980,
c. 434 **78.** Section 8 of the *Regional Municipality of Durham Act* is amended by adding the following subsection:

Manner of
election
R.S.O. 1980,
c. 302 (1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election.

79. Sections 68 and 69 of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 10, are repealed.

80. Subsection 95 (1) of the Act is repealed and the following substituted:

Investment of
money
R.S.O. 1980,
c. 302 (1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

81.—(1) Section 104 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 21, is further amended by adding the following subsection:

Borrowing
from reserve
funds (1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 104 (2) of the Act is amended by striking out “70 per cent of the uncollected balance” in the fifth line and substituting “50 per cent of the total amount”.

(3) Section 104 is further amended by adding the following subsection:

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

Exclusion from estimated revenues

82. Section 106 of the Act is amended by adding the following subsection:

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of R.S.O. 1980, c. 302 apply

83. The Act is amended by adding the following section:

109a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Temporary borrowing

84.—(1) Subsection 110 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When debentures to be payable

(2) Paragraph 3 of subsection 110 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 110 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

Currency

R.S.O. 1980, c. 302

(4) Subsection 110 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 87, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 110 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 110 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

85. Clause 111 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

86. Section 111a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 88, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

111a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

87. Subsections 117 (3) and (4) of the Act are repealed and the following substituted:

Mechanical
reproduction
of signatures

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

88.—(1) Subsection 119 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the eighth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and

- (c) by striking out “in such a book” in the eighteenth and nineteenth lines.

(2) Subsection 119 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 119 (4) of the Act is repealed and the following substituted:

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

Registration
of debenture

(4) Subsection 119 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

89. The Act is further amended by adding the following section:

119a.—(1) The following records may be kept electronically or by using a magnetic medium:

Records
storage

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 119 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 121 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 119 (1).

Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

Idem

90. Subsection 121 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK ACT

R.S.O. 1980,
c. 435

91. Subsection 77 (1) of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

Investment of
money
R.S.O. 1980,
c. 302

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

92.—(1) Section 86 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 22, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 86 (2) of the Act is amended by striking out “70 per cent of the uncollected balance” in the fifth line and substituting “50 per cent of the total amount”.

(3) Section 86 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

93. Section 88 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

94. The Act is amended by adding the following section:

Temporary
borrowing

91a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

95.—(1) Subsection 92 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When debentures to be payable

(2) Paragraph 3 of subsection 92 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 92 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

Currency

R.S.O. 1980, c. 302

(4) Subsection 92 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 96, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 92 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 92 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

96. Clause 93 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

97. Section 93a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 97, is repealed and the following substituted:

93a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of R.S.O. 1980, c. 302 apply

98. Subsections 99 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, litho-

Mechanical reproduction of signatures

graphed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

99.—(1) Subsection 101 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the eighth line and substituting “debenture registry”;
- (b) by striking out “enter in a book to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the nineteenth line.

(2) Subsection 101 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 101 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 101 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

100. The Act is further amended by adding the following section:

Records
storage

101a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 101 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 103 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 101 (1). Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

101. Subsection 103 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF HALTON ACT

102. Section 8 of the *Regional Municipality of Halton Act* is amended by adding the following subsection: R.S.O. 1980,
c. 436

(1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election. Manner of
election
R.S.O. 1980,
c. 302

103. Subsection 88 (1) of the Act is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Investment of
money
R.S.O. 1980,
c. 302

104.—(1) Section 97 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 23, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 97 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 97 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

105. Section 100 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

106. The Act is amended by adding the following section:

Temporary
borrowing

102a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

107.—(1) Subsection 103 (3) of the Act is repealed and the following substituted:

When
debentures to
be payable

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Paragraph 3 of subsection 103 (19) of the Act is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(3) Subsection 103 (20) of the Act is repealed and the following substituted:

Currency

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

R.S.O. 1980,
c. 302

(4) Subsection 103 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 69, is amended by

striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 103 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 103 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

108. Clause 104 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

109. Section 104a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 70, is repealed and the following substituted:

104a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of
R.S.O. 1980,
c. 302 apply

110. Subsections 110 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical
reproduction
of signatures

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

Effect of
mechanical
reproduction

111.—(1) Subsection 112 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the eighth line and substituting “debenture registry”;

(b) by striking out “enter in a book to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and

(c) by striking out “in such book” in the eighteenth line.

(2) Subsection 112 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 112 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 112 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

112. The Act is further amended by adding the following section:

Records
storage

112a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 112 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 114 (4) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 112 (1).

Idem

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a

readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

113. Subsection 114 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH ACT

114.—(1) Subsection 9 (2) of the *Regional Municipality of Hamilton-Wentworth Act* is amended by striking out “Subject to subsection (3)” in the first line. R.S.O. 1980, c. 437

(2) Subsection 9 (3) of the Act is repealed.

115. Section 71 of the Act is repealed and the following substituted:

71. Except as otherwise provided in this Part, sections 110 to 132 apply with necessary modifications to any borrowing for the purposes of a commission established by section 62. Borrowing

116. Subsection 99 (1) of the Act is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Investment of money
R.S.O. 1980, c. 302

117.—(1) Section 108 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 24, is further amended by adding the following subsection:

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund. Borrowing from reserve funds

(2) Subsection 108 (2) of the Act is amended by striking out “70 per cent of the uncollected balance” in the fourth and fifth lines and substituting “50 per cent of the total amount”.

(3) Section 108 is further amended by adding the following subsection:

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from Exclusion from estimated revenues

borrowings or issues of debentures or from a surplus including arrears of levies.

118. Section 111 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

119. The Act is amended by adding the following section:

Temporary
borrowing

113a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

120.—(1) Subsection 114 (3) of the Act is repealed and the following substituted:

When
debentures to
be payable

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Paragraph 3 of subsection 114 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 114 (20) of the Act is repealed and the following substituted:

Currency

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

R.S.O. 1980,
c. 302

(4) Subsection 114 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 78, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 114 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 114 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

121. Clause 115 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

122. Section 115a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 79, is repealed and the following substituted:

115a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Provisions of R.S.O. 1980, c. 302 apply

123. Subsections 121 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon. Mechanical reproduction of signatures

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation. Effect of mechanical reproduction

124.—(1) Subsection 123 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the eighth line and substituting “debenture registry”;
- (b) by striking out “enter in a book to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the nineteenth line.

(2) Subsection 123 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth line and substituting “debenture registry”.

(3) Subsection 123 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 123 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

125. The Act is further amended by adding the following section:

Records
storage

123a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 123 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 125 (4) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 123 (1).

Idem

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

126. Subsection 125 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF NIAGARA ACT

R.S.O. 1980,
c. 438

127. Subsection 126 (1) of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Investment of money
R.S.O. 1980,
c. 302

128.—(1) Section 137 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 25, is further amended by adding the following subsection:

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

Borrowing
from reserve
funds

(2) Subsection 137 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 137 is further amended by adding the following subsection:

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

Exclusion
from
estimated
revenues

129. Section 139 of the Act is amended by adding the following subsection:

(1a) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of
R.S.O. 1980,
c. 302 apply

130. The Act is amended by adding the following section:

141a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Temporary
borrowing

131.—(1) Subsection 142 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When
debentures to
be payable

(2) Paragraph 3 of subsection 142 (19) of the Act is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(3) Subsection 142 (20) of the Act is repealed and the following substituted:

Currency

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

R.S.O. 1980,
c. 302

(4) Subsection 142 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 23, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 142 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third, fourth and fifth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 142 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

132. Clause 143 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

133. Section 143a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 24, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

143a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

134. Subsections 149 (3) and (4) of the Act are repealed and the following substituted:

Mechanical
reproduction
of signatures

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature

of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

135.—(1) Subsection 151 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the tenth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the eighteenth and nineteenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the twenty-first line.

(2) Subsection 151 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 151 (4) of the Act is repealed and the following substituted:

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

Registration
of debenture

(4) Subsection 151 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

136. The Act is further amended by adding the following section:

151a.—(1) The following records may be kept electronically or by using a magnetic medium:

Records
storage

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 151 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 153 (4) and the issuance of any new debentures in exchange.

Admissibility (2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 151 (1).

Idem (3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

137. Subsection 153 (4) of the Act is amended by striking out “Debenture Registry Book” in the third and fourth lines and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON ACT

R.S.O. 1980, c. 439 **138.** Subsection 119 (1) of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

Investment of money
R.S.O. 1980, c. 302 (1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

139.—(1) Section 128 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 26, is further amended by adding the following subsection:

Borrowing from reserve funds (1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 128 (2) of the Act is amended by striking out “70 per cent of the uncollected balance” in the fifth line and substituting “50 per cent of the total amount”.

(3) Section 128 is further amended by adding the following subsection:

Exclusion from estimated revenues (3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

140. Section 130 of the Act is amended by adding the following subsection:

(1a) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Provisions of R.S.O. 1980, c. 302 apply

141. The Act is amended by adding the following section:

131a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Temporary borrowing

142.—(1) Subsection 133 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years. When debentures to be payable

(2) Paragraph 3 of subsection 133 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 133 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed in that subsection. Currency R.S.O. 1980, c. 302

(4) Subsection 133 (22) of the Act is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 133 (25) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 133 (29) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

143. Clause 134 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

144. Section 134a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 12, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

134a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

145. Subsections 140 (3) and (4) of the Act are repealed and the following substituted:

Mechanical
reproduction
of signatures

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

146.—(1) Subsection 142 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the ninth and tenth lines and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the seventeenth and eighteenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the nineteenth and twentieth lines.

(2) Subsection 142 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth line and substituting “debenture registry”.

(3) Subsection 142 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 142 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

147. The Act is further amended by adding the following section:

142a.—(1) The following records may be kept electronically or by using a magnetic medium: Records storage

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 142 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 144 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 142 (1). Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

148. Subsection 144 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF PEEL ACT

149. Section 8 of the *Regional Municipality of Peel Act* is amended by adding the following subsection: R.S.O. 1980,
c. 440

(1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election. Manner of
election
R.S.O. 1980,
c. 302

150. Subsection 83 (1) of the Act is repealed and the following substituted:

Investment of
money
R.S.O. 1980,
c. 302

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

151.—(1) Section 92 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 27, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 92 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 92 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

152. Section 95 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

153. The Act is amended by adding the following section:

Temporary
borrowing

97a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

154.—(1) Subsection 98 (3) of the Act is repealed and the following substituted:

When
debentures to
be payable

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Paragraph 3 of subsection 98 (19) of the Act is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(3) Subsection 98 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed in that subsection.

Currency

R.S.O. 1980,
c. 302

(4) Subsection 98 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 60, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 98 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 98 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

155. Clause 99 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

156. Section 99a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 61, is repealed and the following substituted:

99a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of
R.S.O. 1980,
c. 302 apply

157. Subsections 105 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical
reproduction
of signatures

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

Effect of
mechanical
reproduction

158.—(1) Subsection 107 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the eighth line and substituting “debenture registry”;
- (b) by striking out “enter in a book to be called the Debenture Registry Book” in the sixteenth and seventeenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the eighteenth line.

(2) Subsection 107 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth line and substituting “debenture registry”.

(3) Subsection 107 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 107 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

159. The Act is further amended by adding the following section:

Records
storage

107a.—(1) The following records may be kept electronically or by using a magnetic medium:

- 1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 107 (1).
- 2. Names and addresses of the owners of registered debentures.
- 3. Particulars of the cancellation and destruction of debentures under subsection 109 (4) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a read-

ily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 107 (1).

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

160. Subsection 109 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fifth line and substituting in each instance “debenture registry”.

161. The Act is further amended by adding the following sections:

132a.—(1) The Regional Corporation may establish and operate programs for the reduction, recovery, recycling and reuse of waste and the Regional Corporation may enter into agreements with one or more area municipalities to provide for the joint management and operation of the programs upon such terms and conditions as may be agreed upon. Waste management programs

(2) An agreement under subsection (1) may provide that the Regional Corporation shall be responsible for the collection and marketing of waste separated by the public at source for recycling or reuse. Recycling

132b.—(1) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam and, for these purposes, may, Waste recovery programs

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus and equipment on, over, under or across any highway or any other land with the consent of the owner of the land; and

- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

Interpretation (2) In subsection (1), “product” includes fuel derived from waste.

R.S.O. 1980,
c. 309 does
not apply (3) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (1).

Facilities
designated
for area
municipality **132c.**—(1) If the Regional Council has established facilities for the reduction, recovery, recycling or reuse of waste or any class or classes thereof, the Regional Council may designate one or more of the facilities for the use of an area municipality.

Limitation (2) If a designation has been made under subsection (1), an area municipality shall not utilize any facilities for the reduction, recovery, recycling or reuse of waste except the facilities that have been so designated for that area municipality.

REGIONAL MUNICIPALITY OF SUDBURY ACT

R.S.O. 1980,
c. 441 **162.** Section 7 of the *Regional Municipality of Sudbury Act* is amended by adding the following subsection:

Manner of
election
R.S.O. 1980,
c. 302 (1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election.

163. Subsection 69 (1) of the Act is repealed and the following substituted:

Investment of
money
R.S.O. 1980,
c. 302 (1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

164.—(1) Section 79 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 28, is further amended by adding the following subsection:

Borrowing
from reserve
funds (1a) A promissory note or bankers’ acceptance is not required for borrowing from a municipality’s own reserve fund.

(2) Subsection 79 (2) of the Act is amended by striking out “70 per cent of the uncollected balance” in the fifth line and substituting “50 per cent of the total amount”.

(3) Section 79 is further amended by adding the following subsection:

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

Exclusion
from
estimated
revenues

165. Section 81 of the Act is amended by adding the following subsection:

(1a) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of
R.S.O. 1980,
c. 302 apply

166. The Act is amended by adding the following section:

82a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Temporary
borrowing

167.—(1) Subsection 84 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When
debentures to
be payable

(2) Paragraph 3 of subsection 84 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 84 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

Currency

R.S.O. 1980,
c. 302

(4) Subsection 84 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 51, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 84 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 84 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

168. Clause 85 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

169. Section 85a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 52, is repealed and the following substituted:

Provisions of
R.S.O. 1980,
c. 302 apply

85a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

170. Subsections 91 (3) and (4) of the Act are repealed and the following substituted:

Mechanical
reproduction
of signatures

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

171.—(1) Subsection 93 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the tenth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the seventeenth and eighteenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the twentieth line.

(2) Subsection 93 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 93 (4) of the Act is repealed and the following substituted:

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture. Registration
of debenture

(4) Subsection 93 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

172. The Act is further amended by adding the following section:

93a.—(1) The following records may be kept electronically or by using a magnetic medium: Records
storage

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 93 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 95 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 93 (1). Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

173. Subsection 95 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fourth and fifth lines and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF WATERLOO ACT

R.S.O. 1980,
c. 442

174. Section 7 of the *Regional Municipality of Waterloo Act* is amended by adding the following subsection:

Manner of
election
R.S.O. 1980,
c. 302

(1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election.

175. Subsection 116 (1) of the Act is repealed and the following substituted:

Investment of
money
R.S.O. 1980,
c. 302

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

176.—(1) Section 126 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 29, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 126 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 126 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

177. Section 129 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(2) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

178. The Act is amended by adding the following section:

Temporary
borrowing

131a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

179.—(1) Subsection 132 (3) of the Act is repealed and the following substituted:

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

When
debentures to
be payable

(2) Paragraph 3 of subsection 132 (19) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

(3) Subsection 132 (20) of the Act is repealed and the following substituted:

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 148 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

Currency

R.S.O. 1980,
c. 302

(4) Subsection 132 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 42, is amended by striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 132 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 132 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

180. Clause 133 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

181. Section 133a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 43, is repealed and the following substituted:

133a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of
R.S.O. 1980,
c. 302 apply

182. Subsections 139 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, litho-

Mechanical
reproduction
of signatures

graphed, printed or otherwise mechanically reproduced thereon.

Effect of
mechanical
reproduction

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

183.—(1) Subsection 141 (1) of the Act is amended,

- (a) by striking out “Debenture Registry Book” in the tenth line and substituting “debenture registry”;
- (b) by striking out “enter in a book, to be called the Debenture Registry Book” in the seventeenth and eighteenth lines and substituting “record in a debenture registry”; and
- (c) by striking out “in such book” in the twentieth line.

(2) Subsection 141 (3) of the Act is amended by striking out “Debenture Registry Book” in the fifth and sixth lines and substituting “debenture registry”.

(3) Subsection 141 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 141 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

184. The Act is further amended by adding the following section:

Records
storage

141a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 141 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 143 (4) and the issuance of any new debentures in exchange.

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 141 (1). Admissibility

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record. Idem

185. Subsection 143 (4) of the Act is amended by striking out “Debenture Registry Book” in the third line and in the fourth and fifth lines and substituting in each instance “debenture registry”.

REGIONAL MUNICIPALITY OF YORK ACT

186. Section 7 of the *Regional Municipality of York Act* is amended by adding the following subsection: R.S.O. 1980,
c. 443

(1a) Despite section 62 of the *Municipal Act*, the chairman shall be elected in the manner provided by by-law passed by the Regional Council before the election. Manner of
election
R.S.O. 1980,
c. 302

187. Subsection 118 (1) of the Act is repealed and the following substituted:

(1) Sections 169, 169a, 169b, 169c and 169d of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Investment of
money
R.S.O. 1980,
c. 302

188.—(1) Section 129 of the Act, as amended by the Statutes of Ontario, 1988, chapter 31, section 30, is further amended by adding the following subsection:

Borrowing
from reserve
funds

(1a) A promissory note or bankers' acceptance is not required for borrowing from a municipality's own reserve fund.

(2) Subsection 129 (2) of the Act is amended by striking out "70 per cent of the uncollected balance" in the fifth line and substituting "50 per cent of the total amount".

(3) Section 129 is further amended by adding the following subsection:

Exclusion
from
estimated
revenues

(3a) For the purposes of subsections (2) and (3), estimated revenues do not include revenues derivable or derived from borrowings or issues of debentures or from a surplus including arrears of levies.

189. Section 131 of the Act is amended by adding the following subsection:

Provisions of
R.S.O. 1980,
c. 302 apply

(1a) Subsections 149 (2), (4) and (5) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

190. The Act is amended by adding the following section:

Temporary
borrowing

132a. Section 190 of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

191.—(1) Subsection 134 (3) of the Act is repealed and the following substituted:

When
debentures to
be payable

(3) The whole debt and the debentures to be issued therefor shall be made payable within a term not to exceed the lifetime of the undertaking up to a maximum of forty years.

(2) Paragraph 3 of subsection 134 (19) of the Act is amended by striking out "Debenture Registry Book" at the end and substituting "debenture registry".

(3) Subsection 134 (20) of the Act is repealed and the following substituted:

Currency

(20) The by-law may provide that the debentures shall be expressed and be payable in Canadian currency or, if the Regional Corporation is a prescribed municipality under subsection 184 (4) of the *Municipal Act*, in a currency other than that of Canada as prescribed under that subsection.

R.S.O. 1980,
c. 302

(4) Subsection 134 (21a) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 32, is amended by

striking out “described in clause (20) (b), (c) or (d)” in the second and third lines and substituting “other than that of Canada”.

(5) Subsection 134 (24) of the Act is amended by striking out “two members appointed by the Regional Council, and the two” in the third and fourth lines and substituting “such other members appointed by the Regional Council as it considers appropriate and the”.

(6) Subsection 134 (28) of the Act is amended by striking out “Two” in the first line and substituting “A majority of the”.

192. Clause 135 (d) of the Act is amended by striking out “Debenture Registry Book” at the end and substituting “debenture registry”.

193. Section 135a of the Act, as enacted by the Statutes of Ontario, 1982, chapter 26, section 33, is repealed and the following substituted:

135a. Section 143a and subsections 146 (2a) to (2c) of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Provisions of R.S.O. 1980, c. 302 apply

194. Subsections 141 (3) and (4) of the Act are repealed and the following substituted:

(3) The signature of the chairman, the treasurer or such other person authorized by by-law to sign or countersign the debentures or other like instruments may be engraved, lithographed, printed or otherwise mechanically reproduced thereon.

Mechanical reproduction of signatures

(4) The seal of the Regional Corporation when engraved, lithographed, printed or otherwise mechanically reproduced has the same effect as if manually affixed and the signature of the treasurer, chairman or such other person authorized by by-law to sign or countersign the debentures or other like instruments when engraved, lithographed, printed or otherwise mechanically reproduced shall be deemed the signature of the treasurer, chairman or other person respectively and is binding upon the Regional Corporation.

Effect of mechanical reproduction

195.—(1) Subsection 143 (1) of the Act is amended,

(a) by striking out “Debenture Registry Book” in the tenth line and substituting “debenture registry”;

(b) by striking out “enter in a book, to be called the Debenture Registry Book” in the eighteenth and nineteenth lines and substituting “record in a debenture registry”; and

(c) by striking out “in such book” in the twenty-first line.

(2) Subsection 143 (3) of the Act is amended by striking out “Debenture Registry Book” in the sixth line and substituting “debenture registry”.

(3) Subsection 143 (4) of the Act is repealed and the following substituted:

Registration
of debenture

(4) A debenture may be registered as to principal and interest, in which case the interest shall be paid by cheque or, if authorized in writing by the owner of the debenture, by electronic transfer and the debenture may be referred to as a fully registered debenture.

(4) Subsection 143 (5) of the Act is amended by striking out “Debenture Registry Book” in the third line and substituting “debenture registry”.

196. The Act is further amended by adding the following section:

Records
storage

143a.—(1) The following records may be kept electronically or by using a magnetic medium:

1. Copies of certificates of ownership and original memoranda of debenture transfers under subsection 143 (1).
2. Names and addresses of the owners of registered debentures.
3. Particulars of the cancellation and destruction of debentures under subsection 145 (4) and the issuance of any new debentures in exchange.

Admissibility

(2) Any writing produced from an electronic or magnetic medium that represents the copy of a certificate of ownership kept under paragraph 1 of subsection (1) and that is in a readily understandable form is admissible in evidence to the same extent as a copy of the certificate under subsection 143 (1).

Idem

(3) If there is no original written record, any writing produced from an electronic or magnetic medium that is in a

readily understandable form and that represents a memorandum of debenture transfer or the records kept under paragraph 2 or 3 of subsection (1) is admissible in evidence to the same extent as if it were an original written record.

197. Subsection 145 (4) of the Act is amended by striking out “Debenture Registry Book” in the third and fourth lines and in the fifth and sixth lines and substituting in each instance “debenture registry”.

198. The Act is further amended by adding the following sections:

169a.—(1) The Regional Corporation may establish and operate programs for the reduction, recovery, recycling and reuse of waste and the Regional Corporation may enter into agreements with one or more area municipalities to provide for the joint management and operation of the programs upon such terms and conditions as may be agreed upon. Waste
management
programs

(2) An agreement under subsection (1) may provide that the Regional Corporation shall be responsible for the collection and marketing of waste separated by the public at source for recycling or reuse. Recycling

169b.—(1) The Regional Corporation may erect, maintain and operate buildings, structures, machinery or equipment for the purposes of recovering, manufacturing, producing, supplying, selling or distributing from domestic or industrial sewage or waste any product, resource, commodity, electrical power or energy, hot water or steam and, for these purposes, may, Waste
recovery
programs

- (a) enter into agreements with any person;
- (b) carry on investigations, experiments, research or development;
- (c) construct and maintain pipes, apparatus and equipment on, over, under or across any highway or any other land with the consent of the owner of the land; and
- (d) acquire any patent or licence or any interest in any patent or licence, or dispose of any patent or licence by sale or otherwise.

(2) In subsection (1), “product” includes fuel derived from waste. Interpretation

R.S.O. 1980,
c. 309 does
not apply

(3) The *Municipal Franchises Act* does not apply to any act of the Regional Corporation under subsection (1).

Facilities
designated
for area
municipality

169c.—(1) If the Regional Council has established facilities for the reduction, recovery, recycling or reuse of waste or any class or classes thereof, the Regional Council may designate one or more of the facilities for the use of an area municipality.

Limitation

(2) If a designation has been made under subsection (1), an area municipality shall not utilize any facilities for the reduction, recovery, recycling or reuse of waste except the facilities that have been so designated for that area municipality.

LOCAL IMPROVEMENT ACT

R.S.O. 1980,
c. 250

199. Section 1 of the *Local Improvement Act* is amended by adding the following paragraph:

- 1a. “borrow” and “borrowing” includes borrowing by the issue of debentures, by bank loan and by advances from a municipality’s own funds.

200. Clause 20 (2) (e) of the Act is repealed and the following substituted:

- (e) the estimated cost of borrowing, including the sale of debentures and any discount allowed on them and if the borrowing is from the municipality’s own funds, the cost of borrowing shall include an imputed interest cost based on the rate of interest, as certified by the municipal treasurer, that the municipality would have paid if it had issued debentures on the same day and on the same conditions as the borrowing from municipal funds.

201. Subsection 29 (5) of the Act is amended by striking out “debentures issued” in the third line and substituting “borrowing”.

202. Section 49 of the Act is amended by striking out “debenture debt” in the fourth line and substituting “borrowing”.

203.—(1) Subsection 53 (2) of the Act is amended by striking out at the end “and may issue debentures for the sums so borrowed”.

(2) Subsection 53 (4) of the Act is amended by striking out “debentures” in the eleventh line and substituting “borrowing”.

(3) Subsection 53 (5) of the Act is amended by striking out “debentures issued” in the third line and substituting “borrowing”.

(4) Subsection 53 (6) of the Act is amended by striking out “debentures” in the fourth line and substituting “borrowing”.

(5) Subsection 53 (7) of the Act is repealed.

(6) Subsection 53 (9) of the Act is amended,

- (a) by striking out “debentures” in the first line and substituting “borrowing”; and
- (b) by inserting after “provided” in the third line “with necessary modifications”.

204.—(1) Subsection 54 (1) of the Act is amended by striking out “and issuing debentures therefor” in the fourth line and by striking out “and for issuing one series of debentures therefor” at the end.

(2) Subsection 54 (3) of the Act is amended by striking out “debentures issued” in the second and third lines and substituting “borrowing”.

(3) Subsection 54 (4) of the Act is amended,

- (a) by striking out “the” in the fourth line and substituting “any”; and
- (b) by inserting after “raised” in the fifth line and in the seventh line in each instance “by debentures”.

205. Section 55 of the Act is amended by striking out “and for issuing one series of debentures therefor” at the end.

206. Subsection 60 (1) of the Act is amended by striking out “the issue of debentures for” in the fourth line.

207. Subsection 65 (8) of the Act is amended by striking out “debentures issued for the money borrowed” in the fifth and sixth lines and substituting “borrowing”.

208. Subsection 66 (2) of the Act is amended by striking out “for the issue of debentures” in the seventh and eighth lines and substituting “to borrow”.

MUNICIPAL ELECTIONS ACT

R.S.O. 1980,
c. 308

209.—(1) Subsection 44 (1) of the *Municipal Elections Act* is amended by striking out “reeve, or reeve and deputy reeve” in the sixth and seventh lines and substituting “county councillor”.

(2) Subsection 44 (2) of the Act is amended by striking out “reeve, or mayor, reeve and deputy reeve” in the fifth line and substituting “county councillor”.

(3) Subsection 44 (4) of the Act is amended by striking out “reeve or of reeve and deputy reeve” in the third line and substituting “mayor or mayor and county councillor”.

(4) Subsection 44 (5) of the Act is amended by striking out “reeve and deputy reeve” in the second and third lines and substituting “any county councillor” and by striking out “reeve, deputy reeve” in the fifth line and substituting “mayor and county councillor”.

210. Paragraph 1 of subsection 49 (1) of the Act is amended by striking out “reeve or deputy reeve” in the second line and substituting “or county councillor”.

ONTARIO MUNICIPAL BOARD ACT

R.S.O. 1980,
c. 347

211. Subsection 64 (3) of the *Ontario Municipal Board Act* is amended by adding the following clause:

R.S.O. 1980,
c. 302

- (c) to incurring a debt referred to in clause 149 (4) (a) of the *Municipal Act* which does not cause the municipality to exceed its bulk borrowing limits referred to in clause 149 (4) (b) of that Act.

TRANSITION AND COMMENCEMENT

Transition,
deemed
references

212.—(1) A reference in any special Act relating to a particular municipality to a reeve or deputy reeve of a town, village or township shall be deemed to be a reference to the mayor or county councillor, respectively, of that town, village or township.

Idem

(2) A reference in any special Act relating to a particular municipality to the warden of a county shall be deemed to be a reference to the county warden of that county.

Transition,
foreign
currency by-
laws

213. A by-law of a municipality, including a regional and metropolitan municipality and the County of Oxford, passed before the coming into force of this Act for the borrowing of

money by the issue of debentures in a currency other than that of Canada, the United States of America or Great Britain remains valid despite the amendments made to section 148 of the *Municipal Act* by this Act.

R.S.O. 1980,
c. 302

214. Despite the repeal of sections 68 and 69 of the *Regional Municipality of Durham Act*, if an amendment to an area municipality official plan has been adopted by the Regional Council and the amendment is not approved before the coming into force of this Act, the Minister or the Municipal Board, on a referral thereto, may continue to deal with the amendment under the *Planning Act, 1983* without it being re-considered or adopted by the area council.

Transition,
Durham
R.S.O. 1980,
c. 434

1983, c. 1

215.—(1) This Act, except sections 1, 3 to 18, 35 to 38, 40, 41, 209, 210 and 212 comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 3 to 18, 35 to 38, 40, 41, 209, 210 and 212 come into force on the 1st day of December, 1991.

Idem

(3) Despite subsection (2), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if the provisions set out in subsection (2) were in force.

Transition
R.S.O. 1980,
c. 308

216. The short title of this Act is the *Municipal Statute Law Amendment Act, 1990*.

Short title

Bill 230

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. J. Sweeney
Minister of Municipal Affairs

1st Reading June 26th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill would make numerous changes to the municipal election procedure in respect of voting accessibility, accountability in campaign financing and administrative efficiency. Many of the changes are minor or technical in nature. The major substantive changes are as follows:

1. The proxy voting process would be changed to permit the clerk to require that a person exercising a proxy provide proof of his or her identification. It would be clarified that an elector may act as a voting proxy for either a relative or a non-relative, but not both.
2. Municipalities would be given the authority to pass a by-law providing for alternative forms of ballots for the benefit of visually impaired electors.
3. Municipalities would be permitted to provide election related information in languages other than English.
4. The clerk would be given the power to requisition municipal facilities, school board facilities, provincially funded institutions and buildings with 100 or more dwelling units for use as polling places as needed.
5. Candidates not complying with the financial reporting and disclosure requirements would be ineligible to be elected to any municipal or related office. The clerk would give notice of the disqualification to both the elected and non-elected candidates.
6. The threshold for which a registered candidate may file a statutory declaration rather than a complete financial statement has been increased from \$1,000 to \$2,000.
7. Campaign surpluses are to be held in trust for each candidate until the next municipal election. Any surplus would be applied against the debts incurred in the immediate past election of the candidate or become the starting balance of the upcoming campaign, or both. If the candidate does not seek office in the next municipal election, the surplus will be transferred to the relevant municipality, school board or local board.
8. A limit of \$5,000 would be established as the maximum aggregate amount the individual, trade union, or corporation may contribute to a campaign. This limit would apply separately to each jurisdiction in which representatives are directly elected.
9. The costs for tax credits or rebates in respect of jointly elected offices would be apportioned equally between the upper and lower tier municipalities participating in the system.
10. A new procedure is set up for requiring a compliance audit upon the complaint of an elector. The procedures are set out in the proposed sections 134a to 134d of the Act (as set out in section 74 of the bill).
11. The revision period for the preliminary list of electors is reduced from 42 to 39 days.
12. The clerk would be authorized to remove the names of deceased persons from the preliminary list of electors without the need for a hearing.
13. The maximum number of electors in polling subdivisions would be increased from 350 to 1,000 electors.

14. The clerk would be authorized to require proof of identification from those persons wishing to add their names to the polling list.
15. A recount would be automatic if the vote differential between an elected and non-elected candidate is less than the greater of (a) 10 votes; and (b) the lesser of one-half of a vote for each polling subdivision and .25 per cent of the total number of votes cast for the office.
16. The sale or use of voters' lists for commercial purposes would be prohibited.

Bill 230

1990

**An Act to amend the
Municipal Elections Act and certain other
Acts related to Municipal Elections**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 18 of section 1 of the *Municipal Elections Act*, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines. R.S.O. 1980,
c. 308

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

2.—(1) Subclause 2 (a)(ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Section 2 of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subsections:

(2) The Minister shall by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election to any office within The Regional Municipality of Ottawa-Carleton. Ottawa-
Carleton

(3) An order under subsection (2) may establish different procedures and mechanisms for carrying out the elections than are established under this Act. Different
procedures

3.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

Returning
officer for
school board
R.S.O. 1980,
c. 129

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsections:

Returning
officer,
Hamilton-
Wentworth

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

Returning
officer,
Ottawa-
Carleton

(5) The clerk of The Regional Municipality of Ottawa-Carleton shall be the returning officer for the election to the office of regional councillor of the council of The Regional Municipality of Ottawa-Carleton.

4.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

5. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

6. Subsection 8 (3) of the Act is repealed and the following substituted:

Expenses of
by-election of
local board

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality the reasonable expenses incurred by the clerk in conducting the election.

Payment

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

7. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in

October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

8. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election. Ineligibility to vote

10. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 1,000 electors or extend beyond the boundaries of one ward. Size

11.—(1) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(2) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election. Extracts of list

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year. When request to be made

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so. Mandatory request

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board. Copy to school board

Copy to
registered
candidate

(7) Upon the request of a person who is a registered candidate, as defined in section 121 or 138, and who is registered to run in an election for the office of a member of a school board, the clerk shall provide a copy of the extracts of the enumeration list under subsection (3) to that person.

Status of lists

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

Payment for
producing
extracts

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

12. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

Revision of
list

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.

Mailing of
notice of
electoral
status

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

R.S.O. 1980,
c. 31

- (a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and
- (b) an application for revision of the list in the form prescribed.

13. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

- (b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2); and

14.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list under subsection (1) shall be posted and notice given under section 24.

Posting of
list

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision
period

(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.

(3) Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon
request

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

Registered
candidate
entitled to
copies

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Format of
list

15.—(1) Subsection 27 (3) of the Act is amended by inserting after “filed” in the second line “in person or by mail”.

(2) Section 27 of the Act is amended by adding the following subsection:

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

Where
application
filed by
agent

(3) Subsection 27 (4) of the Act is amended by striking out “may” in the fifth line and substituting “shall”.

16.—(1) Subsection 28 (5) of the Act is amended by striking out “shall” in the second line and substituting “may”.

(2) Subsection 28 (7) of the Act is amended by striking out “registered” in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special
deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletion of
request valid

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

17. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution
of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

18. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

Identification

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

19. Section 34 of the Act is repealed and the following substituted:

Who may be
nominated

34. Any person may be nominated as a candidate for an office if he or she,

- (a) is qualified to hold that office under an Act constituting the office;
- (b) is registered under section 122 or 143 of this Act; and

- (c) is shown on the list of electors eligible to vote for the office.

20. Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during those days and hours that the clerk's office is open during the period from Monday to Saturday inclusive immediately preceding nomination day.

Period for nomination

21.—(1) Subsection 36 (1) of the Act is amended by inserting after “person” in the first line “who is qualified under section 34”.

(2) Clause 36 (1) (c) of the Act is amended by striking out “or a separate school elector, as the fact is” at the end and substituting “a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be”.

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

Determination as to type of elector

22.—(1) Subsection 37 (3) of the Act is amended by striking out “and” in the second line and substituting “mailing address and qualifying”.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

Definition

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the day following nomination day and if”.

(4) Subsection 37 (7) of the Act is amended by striking out “and residence” in the second line and substituting “mailing address and qualifying address”.

23.—(1) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(2) Section 40 of the Act is amended by adding the following subsection:

Quorum

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

24.—(1) Subsection 42 (2) of the Act is repealed and the following substituted:

Voting
machines,
etc.

(2) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

(2) Subsection 42 (4) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

Minister’s
order

(4) Despite any other provision of this Act, if a municipality passes a by-law under subsection (2), the Minister shall by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, and the order may provide for,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used, including the procedures for,

- (i) the taking of the votes,
- (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
- (iii) the counting, by machine or otherwise, of the votes, and
- (iv) the recounting, by machine or otherwise, of the votes.

(5) An order under subsection (4) may establish different procedures and mechanisms for carrying out the elections than are established under this Act. Different procedures

25.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after “arranged” in the third line “and, if the candidates have identical surnames, in order of their given names alphabetically arranged”.

26. Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

27.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less Additional polling places

than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall comply with the request.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end “and the clerk shall take such other steps that he or she considers necessary to provide the information to the electors”.

28. Subsection 47 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special
polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which provides twenty beds or more for the reception, treatment or vocational training of persons who are disabled;
- (c) a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution which provides twenty beds or more for persons who are chronically ill or infirm; or
- (d) a retirement home which provides fifty beds or more.

29. Subsection 48 (2) of the Act is repealed and the following substituted:

Ballot box

(2) A ballot box shall be made of durable material and so constructed that the ballots can be deposited therein and can-

not be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

30.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively. Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31. Determination of status

31. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted. Closing of polling place

32. Subsection 53 (2) of the Act is amended by adding at the end “if the inspection does not impede the opening of the poll on time”.

33. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

Inspection,
sealing of
ballot box

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

34.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

35. The Act is amended by adding the following section:

Identification

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

36. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

37.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

List of
persons
voting

(3) Subsection 66 (8) of the Act is amended by inserting after “of” in the second line “the poll clerk and”.

38.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for,

Limitation

(a) one person who is not a relative; or

(b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

Definition

(2) Subsection 67 (5) of the Act is amended by striking out “may apply to the clerk” in the first and second lines and substituting “shall appear before the clerk in person and complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy”.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of
proxy

39.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

Idem

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

Where part
of votes
rejected

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

40. Clause 77 (1) (k) of the Act is repealed.

41. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning “Notwithstanding section 90”.

42. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

Recount
officer

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

Substitution
for clerk

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

Idem

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

Disqualifi-
cation

(4) No person shall be appointed as a recount officer who,

(a) is a candidate or the spouse of a candidate;

(b) is less than eighteen years of age; or

(c) has participated in the actual counting of the ballots for a polling subdivision in the election.

Limitation

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be

recount officer participated in the actual counting of the ballots.

43. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

44. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end “or the spouse of a candidate”.

45. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “seven” in the second line and substituting “twenty”.

46.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount,

Where vote
is close

(a) if a candidate who was not declared elected requests it in writing; and

(b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3).

Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “no earlier than ten days and” in the second line.

47.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “regional municipality or metropolitan municipal-

ity” in the second and third lines and substituting “or regional municipality”.

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “no earlier than ten days and” in the second line.

48.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “no earlier than ten days and” in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

49.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by inserting after “give” in the first line “by personal service or registered mail”.

(2) Subsection 88 (5) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “have present a scrutineer appointed for that purpose” in the fourth line and substituting “appoint and have present one scrutineer for each recount station established by the recount officer”.

(3) Subsection 88 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “Subsections 4 (8) and (10)” in the first line and substituting “Subsection 4 (8)”.

50.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning “Subject to sections 88c and 88d”.

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

Duties of
recount
officer after
recount

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) subject to clause (c), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and

- (c) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result unless, within five days following the completion of the recount, the recount officer receives a request under subsection 88c (1). Certification

(5) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable. After certification

51.—(1) Subsection 88c (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

(1) A candidate, a representative of the candidate or a scrutineer who disputes the validity of a ballot or the counting of votes in any ballot may request that the recount officer make an application to a judge of the Ontario Court (Provincial Division) for an order determining the matter. Application to judge

(2) Subsection 88c (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “subsection 88b (2)” at the end and substituting “subsections 88b (2) and (3)”.

(3) Clause 88c (4) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

(4) Clause 88c (4) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by inserting after “give” in the first line “by personal service or registered mail”.

(5) Subsections 88c (10), (11) and (12) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(10) Upon receipt of the judge’s order, the recount officer shall complete the recount and shall, Completion of recount

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;

- (b) subject to clause (c), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (c) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

Certification

(11) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result unless, within five days following the completion of the recount, the recount officer receives a notice under subsection 88j (1).

After certification

(12) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

52. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed.

53. Section 88g of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

Costs of recount

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act and an application or appeal under section 87, 88c or 88j shall be borne by the municipality, school board or local board to which the recount relates.

Frivolous proceedings

(2) Despite subsection (1), if a court finds that an application or appeal under section 87, 88c or 88j is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

Discretion of court not restricted

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

54.—(1) Subsection 88h (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the envelopes described in section 88d and clause 88e (1) (b)” in the third and fourth lines and substituting “all documents relating to the election”.

(2) Subsection 88h (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the envelopes of ballots and the original statements of the vote described in clause 88e (1) (b)” in the second, third and fourth lines and substituting “all documents relating to the election”.

55. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

(1) A candidate declared elected is entitled to sit on the council, school board or local board notwithstanding that a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all appeals under this Act have been disposed of and a different candidate has been declared elected. Right to sit

56.—(1) Clause 88j (3) (c) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 56, section 30, is amended by striking out “and section 88d” in the fourth line and substituting “or clause 88c (10) (c)”.

(2) Clause 88j (3) (d) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 56, section 30, is amended by striking out “88e (1) (b)” at the end and substituting “88c (10) (b)”.

(3) Subsection 88j (4) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 56, section 30, is amended by striking out “88e (2)” at the end and substituting “88c (11)”.

(4) Subsection 88j (7) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 56, section 30, is amended by striking out “objection” in the second line and substituting “dispute”.

57.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1), Retention of
ballots

- (a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or
- (b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

58. The Act is further amended by adding the following section:

Prohibition
respecting
use of lists

91a.—(1) No person shall use an enumeration list, a preliminary list or a polling list prepared as part of the election process under this Act for commercial purposes.

Prohibition
respecting
sale of lists

(2) No person shall knowingly sell an enumeration list, a preliminary list or a polling list prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

59.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

New election

(1) Where a new election is required under the authority of this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;
- (d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;
- (e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

- (f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after “mail” in the second line “or personal service”.

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

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c. 31

(5) Clause 92 (5c)(d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

60. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Neglect of
duties

61. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be elected or appointed to any office for a period of six years following the date of the poll.

Ineligibility
to be elected

62.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is further amended by striking out “and section 121” in the amendment of 1982.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

63. The Act is further amended by adding the following section:

Election
information
in languages
other than
English

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

64.—(1) Clause (b) of the definition of “campaign period” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” at the end of subclause (iii), by adding “or” at the end of subclause (iv) and by adding the following subclause:

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

.

(2) Subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following definition:

1986. c. 33

“Commission” means the Commission on Election Finances established by the *Election Finances Act, 1986*.

(3) The definition of “municipality” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

“municipality” means a city, town, village, police village, township or regional municipality.

(4) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated
corporations
R.S.C. 1952,
c. 148

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

65.—(1) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(2) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding “or” at the end of clause (d) and by adding the following clause:

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

.

(3) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “contributions” in the third line “or incur expenses”.

(4) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following clause:

- (aa) the name of the office for which the candidate has been or proposes to be nominated.

(5) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

66.—(1) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

- (5a) If a registered candidate changes the office for which he or she is registered under clause 122 (5) (aa) to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor’s copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Change of
office

(2) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “(5)” in the second line “or (5a)”.

(3) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on
contributions

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(4) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

67. Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Receipts

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

68.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

69. Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “\$1,000 and” in the second line and substituting “\$2,000 or” and by striking out “\$1,000” in the fourth line and substituting “\$2,000”.

70. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election. Surplus

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election. Release of funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election. Idem

(4) In any election, a surplus is the amount by which the total of, Surplus

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(5) A deficit under clause (4) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (4) (c) and (d) exceeds the total of the amounts described in clauses (4) (a) and (b). Deficit

Restriction

(6) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Disposal of surplus

(7) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

Idem

(8) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

71.—(1) Subsection 133 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 133 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the clerk shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 133 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the sixth and seventh lines.

72. The Act is further amended by adding the following section:

133a.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate has paid over the surplus to the clerk. Ineligibility

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant. Office declared vacant

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act. Penalties unaffected by vacancy

(4) If the office to which a registered candidate was declared elected is subsequently declared vacant under subsection (2), the candidate is ineligible to be nominated as a candidate in any subsequent election relating to any office for a period up to and including the next regular election, unless before that subsequent election the candidate has paid over the surplus to the clerk. Ineligibility

73. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be performed by the auditor of the municipality. Audit requested

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, provide a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration
of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to direct the municipal auditor to hold a compliance audit of the election campaign finances of the registered candidate.

Resolution
required

(4) A direction to the municipal auditor under subsection (3) shall be in the form of a resolution.

Appeal to
Commission

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may direct the municipal auditor to conduct a compliance audit of the election campaign finances of the registered candidate.

Compliance
audit

134b.—(1) Upon receiving the direction of the council of a municipality, a school board, a local board or the Commission under section 134a, the municipal auditor appointed under section 88 of the *Municipal Act* for the municipality, the clerk of which registered the registered candidate under section 122, shall immediately perform an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

R.S.O. 1980,
c. 302

Idem

(2) A compliance audit under subsection (1) shall include an audit of,

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under subsection 122 (5); and

- (e) any other books, papers, documents, or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the municipal auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to, Report of auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the municipal auditor, Powers of municipal auditor

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and
- (b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act. R.S.O. 1980, c. 411

(5) The costs of the municipal auditor incurred in performing a compliance audit shall be paid by the clerk of the municipality who, under section 122, registered the registered candidate who was the subject of the compliance audit. Costs

(6) The clerk shall recover the amount paid from the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office. Recovery of costs

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal. Legal proceeding

Commission
to be notified

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

Legal
proceedings

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

Disqualifi-
cation

134d. If a registered candidate at an election is convicted of contravening clause 133 (1) (a), (b) or (c),

- (a) any office to which the registered candidate was elected shall be deemed vacant;
- (b) the registered candidate shall forfeit the office; and
- (c) the registered candidate is disqualified from holding any office up to and including the next regular election.

POWERS OF COMMISSION

1986, c. 33
applies

134e. Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers of the Commission apply with necessary modifications to the Commission acting under this Part.

74.—(1) Clause (b) of the definition of “campaign period” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” at the end of subclause (iii), by adding “or” at the end of subclause (iv) and by adding the following subclause:

- (v) the clerk sets the nomination day for a new election required by section 38 or 40,

(2) The definition of “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

“municipality” means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

Associated corporations
R.S.C. 1952,
c. 148

75.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

By-laws to
be sent to
Commission
and clerk

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or metropolitan” in the second line.

76.—(1) Clause 143 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(2) Subsection 143 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding “or” at the end of clause (d) and by adding the following clause:

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

.

(3) Subsection 143 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “contributions” in the third line “or incur expenses”.

(4) Clause 143 (7) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “and”.

(5) Clauses 143 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

77.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on
contributions

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

78.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

79. Section 170 of Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

Surplus

(3a) In any election, a surplus is the amount by which the total of,

(a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a)(d) is the amount by which, Deficit
in respect of that preceding election, the total of the amounts described in clauses (3a)(c) and (d) exceed the total of the amount described in clauses (3a)(a) and (b).

80.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office. Forfeiture of office

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the sixth and seventh lines.

81. Subsection 172 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate Office declared vacant

and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties
unaffected by
vacancy

(2a) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

82. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Recovery of
tax credit

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Idem

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

- (a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and
- (b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

R.S.O. 1980,
c. 302

83. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

Disqualifi-
cation

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;

- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

(1b) In subsection (1a), “owner or tenant”, “resident” and “spouse” have the same meaning as in the *Municipal Elections Act*. Definitions
R.S.O. 1980,
c. 308

84. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted: R.S.O. 1980,
c. 121

- 1. I am a Canadian citizen.

85. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed. R.S.O. 1980,
c. 314

86. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted: R.S.O. 1980,
c. 365

- 1. I am a Canadian citizen.

87. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted: R.S.O. 1980,
c. 434

- 1. I am a Canadian citizen.

88. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted: R.S.O. 1980,
c. 435

- 1. I am a Canadian citizen.

89. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted: R.S.O. 1980,
c. 436

- 1. I am a Canadian citizen.

90. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted: R.S.O. 1980,
c. 437

- 1. I am a Canadian citizen.

91. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted: R.S.O. 1980,
c. 438

1. I am a Canadian citizen.

R.S.O. 1980,
c. 440

92. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980,
c. 441

93. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980,
c. 442

94. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

1. I am a Canadian citizen.

R.S.O. 1980,
c. 443

95. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

1. I am a Canadian citizen.

Commence-
ment

96. This Act comes into force on the day it receives Royal Assent.

Short title

97. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*.

Bill 231

An Act respecting Environmental Harm

Mrs. Marland

1st Reading June 26th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to establish a new civil remedy for the protection of the environment. The Bill would permit any person to bring an action against any person whose activity is causing or is likely to cause harm to the environment. A court could order a defendant to pay damages to compensate the public for harm to the environment caused by the defendant's activity. The Bill would also permit a court to order other types of remedies, including granting an injunction.

Any damages awarded against a defendant would be payable to the Environmental Compensation Corporation. A court could recommend that funds paid as damages be used to remedy harm to the environment caused by the defendant's activity or to restore, replace or rehabilitate the environment.

Bill 231**1990****An Act respecting Environmental Harm**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “environment” means, Definition

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other artificial device or thing,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from activities of people, or
- (f) any part or combination of the foregoing and the interrelationships between any two or more of them,

in or of Ontario.

2.—(1) If an activity is causing or is likely to cause harm to the environment, any person may commence an action in a court of competent jurisdiction against any person who is responsible for the activity. Right of action

(2) A person commencing an action under subsection (1) need not have a personal, proprietary or pecuniary interest in the subject-matter of the action. Standing

(3) A person commencing an action under subsection (1) shall give notice of the action to the Minister of the Environment, the Minister of Natural Resources and such other Minister as the court directs. Notice

Remedy

3.—(1) In an action under this Act, if it is established that the activity of the defendant is causing or is likely to cause harm to the environment, the court may do one or more of the following:

1. Order the defendant to pay damages to compensate the public for the harm to the environment caused or likely to be caused by the defendant's activity.
2. Grant an interim or permanent injunction.
3. Order the defendant to remedy the harm to the environment caused or likely to be caused by the defendant's activity.
4. Impose conditions on the defendant.
5. Make such other order as the court considers appropriate.

Factors to be considered by court

(2) In determining what types of remedies to specify in an order under subsection (1), the court shall have regard to the following factors:

1. The public interest in the protection of the environment.
2. The social and economic consequences of potential remedies.
3. The impact of potential remedies on the defendant.

Assessment of damages

4.—(1) If the court orders a defendant to pay damages under this Act, the court shall specify the method by which the damages shall be assessed.

Idem

(2) A method specified under subsection (1) shall be one of the methods prescribed by the regulations made under this Act.

Idem

(3) In selecting the method of assessing damages, the court shall have regard to the guidelines prescribed by the regulations made under this Act.

Payment of damages

5.—(1) If the court orders a defendant to pay damages under this Act, the damages shall be payable to the Environmental Compensation Corporation under the *Environmental Protection Act*.

(2) The court may recommend that funds paid by a defendant as damages be used by the Corporation, Recommendations

- (a) to remedy the harm to the environment caused or likely to be caused by the defendant's activity; or
- (b) to restore, replace or rehabilitate the environment in such manner as the Corporation considers appropriate.

6. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing methods of assessing damages;
- (b) prescribing guidelines concerning the selection of methods of assessing damages.

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *Environmental Harm Act*, Short title
1990.

Bill 232

An Act to revise the Endangered Species Act and amend the law relating to Endangered Species

Mr. Wildman

1st Reading June 26th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to replace the *Endangered Species Act*. The Act currently provides protection to endangered species of animals and plants. The Bill extends this protection to threatened and vulnerable species. In addition, a minimum fine is provided for violations of the Act.

The Bill also amends the *Environmental Assessment Act* to provide that the provisions of that Act apply to any project that may affect the habitat of an endangered, threatened or vulnerable species.

Bill 232**1990**

**An Act to revise the Endangered Species Act
and amend the law relating to Endangered Species**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purposes of this Act are,

Purposes of
Act

- (a) to provide for the conservation, protection, restoration and propagation of endangered, threatened and vulnerable species of fauna and flora in Ontario; and
- (b) to protect the habitat of endangered, threatened and vulnerable species of fauna and flora in Ontario.

2.—(1) The Lieutenant Governor in Council may make regulations,

Regulations
re
endangered,
threatened
and
vulnerable
species

- (a) declaring any species of fauna or flora to be an endangered species if, in the opinion of the Minister of Natural Resources, the species is threatened with extinction in Ontario by reason of,
 - (i) the destruction of its habitat or a drastic modification or severe curtailment thereof,
 - (ii) over-exploitation,
 - (iii) disease,
 - (iv) predacity,
 - (v) the use of chemicals, or
 - (vi) any other factor or factors considered relevant;

(b) declaring any species of fauna or flora to be a threatened species if, in the opinion of the Minister of Natural Resources, the species is likely to become threatened with extinction in Ontario by reason of any of the factors set out in subclauses (a) (i) to (vi);

(c) declaring any species of fauna or flora to be a vulnerable species if, in the opinion of the Minister of Natural Resources, the species has become vulnerable in Ontario by reason of any of the factors set out in subclauses (a) (i) to (vi).

Regulations
may be
limited

(2) Any regulation may be limited territorially or as to time or otherwise.

Prohibition

3.—(1) If a species is declared under this Act to be an endangered, threatened or vulnerable species, no person shall wilfully,

(a) kill, injure, interfere with or take or attempt to kill, injure, interfere with or take the species; or

(b) destroy or interfere with or attempt to destroy or interfere with the habitat of the species.

Offence

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$50,000 or to imprisonment for a term of not more than two years, or to both.

Enforcement
R.S.O. 1980,
c. 182

4. Every conservation officer and deputy conservation officer appointed under the *Game and Fish Act*, every member of the Royal Canadian Mounted Police Force and every member of the Ontario Provincial Police Force has, for the purposes of this Act, the powers and duties of an officer under the *Game and Fish Act*.

Adminis-
tration of
Act

5. The Minister of Natural Resources is responsible for the administration of this Act.

6. The following are repealed:

1. The *Endangered Species Act*, being chapter 138 of the Revised Statutes of Ontario, 1980.
2. Section 72 of the *Provincial Penalties Adjustment Act, 1989*, being chapter 72.

7. The *Environmental Assessment Act* is amended by adding the following section: R.S.O. 1980, c. 140

4a. Every enterprise or activity that may affect the habitat of a species of fauna or flora designated as an endangered, threatened or vulnerable species under the *Endangered, Threatened and Vulnerable Species Act, 1990* and every proposal, plan or program in respect of such an enterprise or activity shall be deemed to be an undertaking to which this Act applies. Enterprise or activity affecting habitat of endangered, threatened or vulnerable species 1990, c. ...

8. This Act comes into force on the day it receives Royal Assent. Commence-ment

9. The short title of this Act is the *Endangered, Threatened and Vulnerable Species Act, 1990*. Short title

Bill 233

An Act to amend the Child and Family Services Act, 1984 and to amend certain other Acts relating to Adoption

The Hon. C. Beer

Minister of Community and Social Services



1st Reading June 27th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill amends almost every Part of the *Child and Family Services Act, 1984*. The majority of the amendments are intended to clarify and simplify administrative procedures and to close unintended gaps in the statute.

The following is a list of some of the more significant substantive changes to the Act contained in the Bill.

1. The provisions granting special cultural considerations and preferred placement practices in respect of Indian and native children are expanded to apply as well to all aboriginal children.
2. A sixth category of service is added, a child and family intervention service.
3. The provision in the Act that Roman Catholic children are not to be committed to the care of Protestant societies and Protestant children are not to be committed to the care of Roman Catholic societies is replaced with a provision that the primary role of the Roman Catholic society is to carry out its responsibilities under the Act for Roman Catholic children and their families.
4. It is clarified that the provisions for representation by Indian bands and native communities in matters concerning Indian and native children applies when those children are members of the band or native community.
5. The reverse onus of proof regarding the offence of lack of reasonable supervision or care of children less than ten years of age is repealed.
6. It is provided that the first review of a Crown wardship order is to be conducted within twelve months of the order.
7. The present criteria and procedures relating to intrusive procedures are made to apply to secure isolation as well.
8. The age of a child's consent to adoption is raised from seven to twelve years.
9. The provision requiring notice to a band or native community when a child who is an Indian or native person is to be placed for adoption is revised. Societies and licensees are required to give the band or native community an opportunity to propose an alternative plan and are required to consider any such alternative plan. Where the alternative plan is rejected, a review is provided.
10. The procedural rights of adoption applicants to review are strengthened.
11. It is provided that Part VIII (Confidentiality of and Access to Records) is to apply to any record whether recorded before or after the Part comes into force.
12. Amendments are made to ensure consistency with Freedom of Information legislation.
13. New provisions are added to regulate the collection of information by service providers, and to authorize them to share information with societies, out of province child protection agencies and the police for the purpose of conducting child protection investigations.
14. The *Vital Statistics Act* is amended to provide that registrations of the birth of persons who are adopted after the amendment comes in force will acknowledge the adoption rather than show the adoptive parents as birth parents.

Bill 233

1990

**An Act to amend the
Child and Family Services Act, 1984 and to
amend certain other Acts relating to Adoption**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (e) of the *Child and Family Services Act*, 1984, c. 55 is amended by striking out “and” at the end.

(2) Clause 1 (f) of the Act is repealed and the following substituted:

- (f) to recognize that Indian and native people should be entitled to provide, wherever possible, their own child and family services; and
- (g) to recognize that all services to Indian and other aboriginal children and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family.

2.—(1) Subsection 3 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 4, section 1, is further amended by renumbering paragraph 1 as paragraph 1a and by adding the following paragraphs:

- 1. “aboriginal person” includes an Indian, Inuit, Metis and native person and a person who claims to be an aboriginal person or whose parent claims that he or she is an aboriginal person;
-
- 6a. “child and family intervention service” means a service for a child with a social, emotional or behavioural problem, for the family of a child with a

social, emotional or behavioural problem, or for the child and the family.

(2) Paragraph 26 of subsection 3 (1) of the Act is amended by renumbering subparagraph i as subparagraph ia and by adding the following subparagraph:

- i. a child and family intervention service.

(3) Section 3 of the Act, as amended by the Statutes of Ontario, 1987, chapter 4, section 1, is further amended by adding the following subsections:

Religious
faith

(3) For the purposes of determining the religious faith, if any, in which a child is being raised, the child shall be deemed to have the religious faith agreed upon by the child's parent, but where there is no agreement or the court cannot readily determine what the religious faith agreed upon is or whether any religious faith is agreed upon, the court may decide what the child's religious faith is, if any, on the basis of the child's circumstances.

Idem

(4) The child's views and wishes, if they can be reasonably ascertained, shall be considered in determining under subsection (3) what the child's religious faith is, if any.

3. Clause 4 (1) (b) of the Act is repealed and the following substituted:

(b) "nearest relative", when used in reference to a person who is a child, means a person with lawful custody of the child, and when used in reference to a person who is not a child, means,

(i) a person to whom the person is married and not living separate and apart if the person has attained the age of sixteen years and is mentally competent, or

(ii) if there is no such person or if none is available, a person of the opposite sex with whom the person is living outside marriage in a conjugal relationship and who has attained the age of sixteen years and is mentally competent, if the two persons,

(A) have cohabited for at least one year,

(B) are together the parents of a child, or

(C) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*,

1986, c. 4

- (iii) if there is no such person or if none is available, any one of the person's children who has attained the age of sixteen years and is mentally competent, or
- (iv) if there is no such person or if none is available, either of the person's parents who is mentally competent, or
- (v) if there is no such person or if none is available, any one of the person's brothers or sisters who has attained the age of sixteen years and is mentally competent, or
- (vi) if there is no such person or if none is available, any other of the next of kin who has attained the age of sixteen years and is mentally competent.

4.—(1) Subsection 5 (1) of the Act is amended by inserting after “person” in the first line “or class of persons”.

(2) Subsection 5 (2) of the Act is amended by inserting after “person” in the first line “or class of persons”.

5. Subsection 6 (4) of the Act is repealed.

6. Clause 7 (1) (b) of the Act is amended by striking out “agencies” in the second line and substituting “organizations”.

7. Subsection 10 (1) of the Act is amended by striking out “upon” in the third line and substituting “at the request of, with the consent of or after”.

8. Section 11 of the Act is amended by adding the following subsections:

(2) The Minister may authorize,

(a) the payment of allowances and reasonable travelling expenses to any or all of the members of a Residential Placement Advisory Committee;

(b) the hiring of staff by a Residential Placement Advisory Committee; and

Payments,
etc., to
members of
RPAC's

- (c) the payment of operating expenses of a Residential Placement Advisory Committee.

Idem

(3) The Minister may make payments for the purposes authorized under subsection (2) out of legislative appropriations.

9. Section 12 of the Act is amended by striking out “Part” in the second line and substituting “Act”.

10. Section 14 of the Act is amended by striking out “approved agency” in the first line and substituting “service provider”.

11.—(1) Subsection 15 (2) of the Act is amended by striking out “functions” in the third line and substituting “responsibilities” and by striking out “function” in the eighth line and substituting “responsibility”.

(2) Subsection 15 (3) of the Act is amended by striking out “functions” in the first line and substituting “responsibilities”.

(3) Clause 15 (4) (a) of the Act is repealed and the following substituted:

- (a) provide the prescribed standard of services in the performance of its responsibilities; and

.

12. The Act is amended by adding the following section:

Role of
Roman
Catholic
societies

15a. The primary role of a Roman Catholic society is to carry out the responsibilities required by its designation in respect of Roman Catholic children and their families.

13. Subsection 19 (1) of the Act is repealed and the following substituted:

Definition

(1) In this section and in section 20, “municipality” means,

- (a) the corporation of a county or a district, metropolitan or regional municipality;
- (b) the corporation of a city that is not in a district, metropolitan or regional municipality or in the County of Oxford;
- (c) the corporation of a separated town; and

- (d) in a territorial district, the corporation of a city, town, village, township or improvement district.

14. Section 20 of the Act is amended by adding the following subsection:

(3) Despite subsection 164 (5) of the *Municipal Act*, a society required to submit estimates to a council under that subsection shall provide those estimates in the form required by the Minister.

Non-application of provision
R.S.O. 1980, c. 302

15.—(1) Clause 22 (1) (d) of the Act is amended by striking out “functions” in the second line and in the third line and substituting in each instance “responsibilities”.

(2) Section 22 of the Act is amended by adding the following subsection:

(1a) The Minister at any time may exercise the powers described in clause (1) (e) or (f) at the request or with the consent of the approved agency or society, as the case may be.

Idem

(3) Subsection 22 (6) of the Act is repealed.

16.—(1) Subsection 29 (3) of the Act is repealed.

(2) Section 29 of the Act is amended by adding the following subsection:

(4a) Subsection 57 (2) (criteria for placement of society and crown wards) applies with necessary modifications to a society in its determination under subsection (4) of whether a residential placement is appropriate.

Appropriateness of placement

17.—(1) Subsection 30 (4) of the Act is amended by striking out “(9) and (10)” in the second line and substituting “and (9)” and by striking out “variation” in the fourth line and substituting “designation by advisory committee”.

(2) Section 30 of the Act is amended by adding the following subsection:

(5) Subsection 29 (10) (variation) applies to an agreement made under subsection (1) or (2).

Subs. 29 (10) applies

18.—(1) Clause 33 (3) (b) of the Act is amended by striking out “bring the child before the court under that Part” in the fifth line and substituting “make an application under subsection 40 (1) of that Part”.

(2) Subsection 33 (5) of the Act is amended by striking out “that provides for care and custody” in the third and fourth lines.

(3) Clause 33 (5) (b) of the Act is amended by striking out “bring the child before the court under that Part” in the fifth and sixth lines and substituting “make an application under subsection 40 (1) of that Part”.

19.—(1) Subsection 34 (1) of the Act is amended by inserting after “residential placement” in the first line “includes a placement with a foster parent but”.

(2) Subsection 34 (3) of the Act is repealed.

(3) Subclause 34 (6) (b) (i) of the Act is repealed and the following substituted:

- (i) within twenty-one days after receiving written notice of the child’s objection, and

.

(4) Subsection 34 (7) of the Act is repealed and the following substituted:

Exception

(7) An advisory committee shall not review a residential placement under clause (6) (b) unless the child objects to the residential placement after having stayed in it for at least fourteen days.

(5) Clause 34 (11) (f) of the Act is repealed and the following substituted:

- (f) if the child is an Indian or other aboriginal person, consider the importance, in recognition of the uniqueness of the culture, language, heritage and traditions of Indian and other aboriginal people, of preserving the child’s cultural identity.

(6) Section 34 is amended by adding the following subsections:

Where child
deemed to
reside

(12) For the purposes of this section, a child shall be deemed to reside where the child’s parent resides unless a society has care and custody of the child, in which case the child shall be deemed to reside in the territorial jurisdiction of the society.

(13) A Director may authorize an advisory committee to conduct a review in respect of a child who does not reside within the advisory committee's jurisdiction if the Director believes it is in the best interests of the child.

Review
where child
resides
outside
jurisdiction

20.—(1) Subsection 36 (1) of the Act is repealed and the following substituted:

(1) A child who is twelve years of age or older and is in a residential placement may apply to the Board within the prescribed period for a determination of whether he or she should remain and, if not, where he or she should be placed, if the child's placement has been reviewed by an advisory committee and,

Review by
Child and
Family
Services
Review
Board

- (a) the child is dissatisfied with the advisory committee's recommendation; or
- (b) the advisory committee's recommendation is not followed.

(2) Subsection 36 (2) of the Act is amended by striking out "and may do so" in the second line.

(3) Subsection 36 (3) of the Act is repealed.

(4) Clause 36 (4) (c) of the Act is repealed and the following substituted:

- (c) where the child is a member of a band or a native person, a representative chosen by the child's band or native community; and

.

(5) Subsection 36 (5) of the Act is repealed and the following substituted:

(5) The Board shall complete its review and make a determination within thirty days of receiving a child's application unless the parties consent to a longer period.

Time for
determination

21.—(1) Clause 37 (2) (l) of the Act is amended by striking out "the child is brought before the court" in the second line and substituting "an application is made under subsection 40 (1)".

(2) Paragraph 3 of subsection 37 (3) of the Act is repealed and the following substituted:

3. The child's linguistic and cultural heritage.

(3) Subsection 37 (4) of the Act is repealed and the following substituted:

Where child
an aboriginal
person

(4) Where a person is directed in this Part to make an order or determination in the best interests of a child and the child is an Indian or other aboriginal person, the person shall take into consideration the importance, in recognition of the uniqueness of the culture, language, heritage and traditions of Indian and other aboriginal people, of preserving the child's cultural identity.

22.—(1) Paragraph 4 of subsection 39 (1) of the Act is repealed and the following substituted:

4. Where the child is a member of a band or a native person, a representative chosen by the child's band or native community.

(2) Subsection 39 (6) of the Act is repealed and the following substituted:

Child's
participation

(6) A child who receives notice of a proceeding under this Part or who is the applicant under subsection 60 (4) (status review) is entitled to participate in the proceeding and to appeal under section 65 as if he or she were a party.

Idem

(6a) A child who has legal representation in a proceeding under this Part but is not permitted to be present at the hearing is entitled to participate in the proceeding by his or her solicitor and to appeal under section 65 as if he or she were a party.

23. Subsection 40 (11) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 36, section 1, is repealed and the following substituted:

Identification
on entry

(11) A child protection worker authorized to enter premises under subsection (10) shall produce identification, including evidence of appointment, on the request of the occupier.

24. Subsection 40d (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 36, section 2, is repealed and the following substituted:

Identification
on entry

(3) A person authorized to enter premises under subsection (2) shall produce identification, including evidence of appointment, on the request of the occupier.

25. Subsection 41 (8) of the Act is repealed and the following substituted:

(8) No person shall publish in any document or broadcast in any way information that has the effect of identifying a child, the child's parent or foster parent or a member of the child's family if that information has the effect of disclosing that the child,

Prohibition:
identifying
child

- (a) has been taken to a place of safety under this Part;
- (b) is or was the subject of a proceeding under this Part; or
- (c) is or was a witness at or a participant in a hearing.

(8a) A person may publish or broadcast information despite subsection (8) if,

Exception

- (a) the child has attained the age of sixteen years and consents in writing to the publication or broadcast; and
- (b) the publication or broadcast will not have the effect of disclosing a matter set out in clause (8) (a), (b) or (c) respecting another child who has not attained the age of 16 years or who, having attained the age of 16 years, has not consented in writing to the publication or broadcast.

(8b) Subsection (8) does not apply in respect of the publication of information in the course of the administration of justice where it is not the purpose of the publication to make the information known in the community.

Non-
application

26. Subsection 42 (2) of the Act, as amended by the Statutes of Ontario, 1988, chapter 36, section 3, is further amended by inserting after "detention" in the second line "as defined in Part IV (Young Offenders)".

27. Clause 43 (2) (c) of the Act is amended by striking out "an Indian" in the first line and substituting "a member of a band".

28. Section 45 of the Act is amended by striking out "Family Law Reform Act" in the fourth line and substituting "Family Law Act, 1986".

29.—(1) Subclause 47 (2) (d) (ii) of the Act is amended by striking out "open" in the first line.

(2) Subsection 47 (3) of the Act is repealed and the following substituted:

Criteria

(3) The court shall not make an order under clause (2) (c) or (d) unless the court is satisfied that,

(a) there are reasonable and probable grounds to believe that there is a substantial risk to the child's health or safety and that the child can not be protected adequately by an order under clause (2) (a) or (b); or

(b) all of the parties consent to the order and, where the child is twelve years of age or more, the child consents to the order.

(3) Subsections 47 (4), (5) and (6) of the Act are repealed and the following substituted:

Permitting or
restraining
access

(4) An order made under subsection (2) may contain provisions giving a person a right of access to the child or restraining or prohibiting a person's access to the child, on the terms and conditions that the court considers appropriate.

Notice

(5) The order shall not contain a provision referred to in subsection (4) unless notice of the proceeding has been served personally on the person affected or the court believes on reasonable grounds that without such a provision the child's health or safety would be endangered.

Order in
force pending
final
disposition

(6) An order made under subsection (2) remains in force until the final disposition of the proceeding unless the court orders otherwise, but the court, on motion of any party, may vary or terminate the order at any time.

30. The Act is further amended by adding the following section:

Consent to
medical
treatment

47a.—(1) If a temporary order is made under section 47 placing a child in the care and custody of a person or society, the person or society, as the case may be, may consent to and authorize medical treatment for the child where a parent's consent would otherwise be required, unless the court orders that the parent shall retain any right that he or she may have to give or refuse consent to medical treatment for the child.

Idem

(2) The court shall not make an order under subsection (1) if failure to consent to necessary medical treatment was a ground for not placing the child in the care and custody of the parent.

(3) If a parent referred to in an order made under subsection (1) refuses or is unavailable to or unable to consent to medical treatment for the child and the court is satisfied that the treatment would be in the child's best interests, the court may authorize the person or society in whose care and custody the child is placed to consent to the treatment.

Court order

31.—(1) Clause 50 (3) (f) of the Act is repealed and the following substituted:

- (f) where the child is a member of a band or a native person, a representative chosen by the child's band or native community; and

.

(2) Section 50 of the Act is amended by adding the following subsection:

(9) Consent under subsection (8) on behalf of a child who is less than sixteen years of age may be given by the child's parent or, if the child is in a society's lawful custody, by the society.

Consent of
child

32. Section 51 of the Act is amended by striking out "a child is brought before the court" in the first line and substituting "an application is made".

33. Subsection 53 (5) of the Act is repealed and the following substituted:

(5) If the child referred to in subsection (4) is an Indian or other aboriginal person, unless there is a substantial reason for placing the child elsewhere, the court shall order that the child be placed with a member of the child's extended family or,

Idem,
aboriginal
child

- (a) if the child is an Indian, with a member of the child's band, with another Indian family or with an aboriginal family that shares the culture, language, heritage and traditions of the child's family;
- (b) if the child is a native person, with a member of the child's native community, with another native family or with an aboriginal family that shares the culture, language, heritage and traditions of the child's family;
- (c) if the child is an aboriginal person but is not an Indian or native person, with an aboriginal family

that shares the culture, language, heritage and traditions of the child's family.

34.—(1) Clause 54 (2) (b) of the Act is repealed and the following substituted:

- (b) any other person, including, where the child is a member of a band or a native person, a representative chosen by the child's band or native community; or

.

(2) Clause 54 (4) (d) of the Act is amended by striking out "an Indian" in the first line and substituting "a member of a band".

35.—(1) Subsection 56 (1) of the Act is amended by striking out "places a child" in the first line and substituting "orders that a child be placed".

(2) Subsection 56 (6) of the Act is amended by striking out "sections 27 to 32 of the *Family Law Reform Act*" in the second and third lines and substituting "the *Support and Custody Orders Enforcement Act, 1985*".

36. Clause 57 (2) (d) of the Act is repealed and the following substituted:

- (d) where the child is an Indian or other aboriginal person, is, if possible, with a member of the child's extended family or,
 - (i) if the child is an Indian, with a member of the child's band, with another Indian family or with an aboriginal family that shares the culture, language, heritage and traditions of the child's family,
 - (ii) if the child is a native person, with a member of the child's native community, with another native family or with an aboriginal family that shares the culture, language, heritage and traditions of the child's family,
 - (iii) if the child is an aboriginal person but is not an Indian or native person, with an aboriginal family that shares the culture, language, heritage and traditions of the child's family.

37.—(1) Subsection 60 (1) of the Act is amended by striking out “under subsection 53 (1)” in the third line.

(2) Subsection 60 (3) of the Act is amended by striking out “under subsection 53 (1)” in the second line.

(3) Subsection 60 (4) of the Act is repealed and the following substituted:

(4) Subject to subsection (5), an application for review of a child’s status may be made on notice to the society by, Others may seek status review

- (a) the child, where the child is at least twelve years of age;
- (b) any parent of the child;
- (c) the person with whom the child was placed under an order for society supervision; or
- (d) where the child is a member of a band or a native person, a representative chosen by the child’s band or native community.

(4) Clause 60 (6) (e) of the Act is repealed and the following substituted:

- (e) where the child is a member of a band or a native person, a representative chosen by the child’s band or native community; and

.

(5) Clause 60 (7) (a) of the Act is repealed and the following substituted:

- (a) the making of the order to be reviewed.

(6) Clause 60 (8) (a) of the Act is repealed and the following substituted:

- (a) the child is a society ward or the subject of an order for society supervision, or the child is a Crown ward in respect of whom an order for access has been made; and

.

38.—(1) Subsection 61 (1) of the Act is repealed and the following substituted:

Court may
vary, etc.

(1) Where an application for review of a child's status is made under section 60, the court may, in the child's best interests,

- (a) vary or terminate the order under review, including a term or condition or a provision for access that is part of the order;
- (b) order that the order under review terminate on a specified future date; or
- (c) make a further order or orders under section 53.

(2) Subsection 61 (2) of the Act is amended by striking out “under paragraph 3 of subsection 53 (1)” in the first and second lines.

(3) Section 61 of the Act is amended by adding the following subsection:

No finding
necessary

(4) It is not necessary for the court to find that a child is in need of protection in an application for review of the child's status.

39.—(1) Subsection 62 (1) of the Act is repealed and the following substituted:

Director's
review of
Crown wards

(1) A Director or a person authorized by a Director shall review the status of every child who is a Crown ward within twelve months after the later of,

- (a) the making of the Crown wardship order; or
- (b) a review under section 61, if such a review has been conducted within twelve months after the making of the Crown wardship order.

Idem

(1a) A Director or a person authorized by a Director shall thereafter review the status of every child who is a Crown ward within twenty-four months after the later of,

- (a) the most recent review under this section; or
- (b) a review under section 61, if such a review has been conducted within twenty-four months after the most recent review under this section.

(2) Subsection 62 (2) of the Act is amended by inserting after “subsection (1)” in the first line “or (1a)”.

40.—(1) Clause 65 (1) (a) of the Act is repealed and the following substituted:

- (a) the child, if the child is entitled to participate in the proceeding under subsection 39 (6) or (6a) (child's participation).

(2) Clause 65 (1) (e) of the Act is repealed and the following substituted:

- (e) where the child is a member of a band or a native person, a representative chosen by the child's band or native community.

(3) Subsection 65 (4) of the Act is amended by striking out "secure" in the fifth line.

(4) Section 65 of the Act is amended by adding the following subsection:

- (4a) Subsections 47a (1), (2) and (3) (consent to medical treatment) apply with necessary modifications where a temporary order is made under subsection (4) placing a child in the care and custody of a person or society.

Consent to
medical
treatment

41.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) In this section and in sections 69, 70 and 71, "to suffer abuse", when used in reference to a child, means,

Definition

- (a) to suffer physical harm, inflicted by the person having charge of, caring for or temporarily responsible for the child or caused by that person's failure to care and provide for or supervise and protect the child adequately;
- (b) to be sexually molested or sexually exploited by the person having charge of, caring for or temporarily responsible for the child or by another person where the first named person knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child;
- (c) to require medical treatment to cure, prevent or alleviate physical harm or suffering where the child's parent or the person having charge of the child or authority to consent to the treatment does not provide, or refuses or is unavailable or unable to consent to the treatment;

- (d) to suffer emotional harm, demonstrated by severe,
 - (i) anxiety,
 - (ii) depression,
 - (iii) withdrawal, or
 - (iv) self-destructive or aggressive behaviour,

where the child's parent or the person having charge of the child does not provide, or refuses or is not available or unable to consent to, services or treatment to remedy or alleviate the harm; or

- (e) to suffer from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development where the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.

(2) Subsection 68 (4) of the Act is amended by striking out “with respect to a child” in the second line.

42. Subsection 69 (5) of the Act is amended by inserting after “of” in the first line “this or”.

43.—(1) Subsection 75 (1) of the Act is repealed and the following substituted:

Definitions

- (1) In this section,

“abuse” means a state or condition of being physically harmed, sexually molested or sexually exploited;

“having charge of a child” includes caring for or being temporarily responsible for a child;

“parent” includes an approved agency that has lawful custody of the child.

(2) Subsection 75 (4) of the Act is repealed.

44.—(1) Section 76 of the Act is amended by adding the following subsection:

Order
without
notice

(2a) The court may make an order under subsection (1) without the notice if the court believes on reasonable grounds

that without such an order the child's health or safety would be endangered.

(2) Clause 76 (4) (f) of the Act is repealed and the following substituted:

- (f) where the child is a member of a band or a native person, a representative chosen by the child's band or native community.

45. Subsection 77 (1) of the Act is repealed and the following substituted:

(1) In this section, "to suffer abuse", when used in reference to a child, has the same meaning as in section 68. Definition

46. Section 78 of the Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding the following clause:

- (c) in accordance with a consent to adoption under Part VII (Adoption).

47. Section 79 of the Act is repealed and the following substituted:

79. Where a child is the subject of an order for society supervision, society wardship or Crown wardship or a temporary order for care and custody by a society, no person shall, Offence

- (a) induce or attempt to induce the child to leave the care of the person with whom the child is placed;
- (b) detain or harbour the child after the person with whom the child is placed or the society requires that the child be returned;
- (c) interfere with the child or remove or attempt to remove the child from any place; or
- (d) for the purpose of interfering with the child, visit or communicate with the person referred to in clause (a).

48. Section 82 of the Act is repealed.

49.—(1) Clause 84 (f) of the Act is amended by striking out "subsection 24 (1)" in the second and third lines and substituting "subsection 24.1 (1)".

(2) Clause 84 (h) of the Act is amended by striking out “subsection 24 (1)” in the third line and substituting “subsection 24.1 (1)”.

50.—(1) Clause 86 (1) (a) of the Act is repealed and the following substituted:

- (a) a provincial director, to perform any or all of the powers, duties and functions of a provincial director,
 - (i) under the federal Act, and
 - (ii) under this Act and the regulations.

(2) Subsection 86 (4) of the Act is repealed and the following substituted:

Authority of
delegate

(4) The powers, duties and functions of a provincial director under this Part may be exercised by his or her delegate.

51. Subsection 89 (5) of the Act is repealed and the following substituted:

Review by
court

R.S.C. 1985,
c. C-46

(5) A young person who is being detained in a place of secure temporary detention and is brought before the court for a review of an order that he or she be detained in custody under Part XVI of the *Criminal Code* (Canada) may request that the court review the level of his or her detention, and the court may confirm the provincial director's decision under subsection (2) or may direct that the young person be transferred to a place of open temporary detention.

Definition

(6) In subsection (5), “court” means any court having jurisdiction to conduct a review of an order described in subsection (5).

52. Section 92 of the Act is amended by adding the following subsection:

Legal advice

(7) The Board may obtain any independent legal advice it considers necessary to perform its duties.

53.—(1) Clause 93 (1) (d) of the Act is amended by striking out “subsection 24 (9)” in the second and third lines and substituting “subsection 24.2 (9)”.

(2) Subclause 93 (6) (a) (iv) of the Act is amended by striking out “subsection 24 (9)” in the second line and substituting “subsection 24.2 (9)”.

54. Subsection 94 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 36, section 10, is repealed and the following substituted:

(6) A person authorized to enter premises under subsection (5) shall produce identification, including evidence of appointment, on the request of the occupier. Idem

55. Subsection 96 (2) of the Act is repealed and the following substituted:

(2) No foster parent shall detain in locked premises a child who is in his or her care. Idem

(3) Subsections (1) and (2) do not prohibit the routine locking of external doors to keep intruders out of the premises unless that locking prevents persons from leaving the premises. Application of subss. (1, 2)

56.—(1) Clause 99 (1) (a) of the Act is amended by striking out “subsection (2)” in the third line and substituting “subsections (2), (2a) and (2b)”.

(2) Clause 99 (1) (b) of the Act is amended by striking out “and” at the end.

(3) Clause 99 (1) (c) of the Act is repealed and the following substituted:

- (c) to send mail to and receive mail from a person described in clause (b) without that mail being read, examined or censored by another person; and
- (d) unless an order provides otherwise, to send mail to and receive mail from a person other than a person described in clause (b) without that mail being read, examined or censored by another person.

(4) Section 99 of the Act is amended by adding the following subsections:

(2a) The right under clause (1) (a) of a child who is a ward of the society or the subject of a temporary order for care and custody by a society is subject to any order respecting access under Part III (Child Protection). When child a society ward

(2b) A child who is detained in a place of temporary detention, committed to secure or open custody under the *Young Offenders Act* (Canada), or held in a place of open custody When child is detained, etc.
R.S.C. 1985, c. Y-1

under section 91 of Part IV (Young Offenders) is not entitled as of right to leave the place to visit his or her family.

(5) Subsection 99 (3) of the Act is repealed and the following substituted:

Opening,
etc., of mail
to child

(3) Despite clause (1) (d), mail from a person other than a person described in clause (1) (b) to a child in care,

- (a) may be opened by the service provider or a member of the service provider's staff in the child's presence and may be inspected for articles prohibited by the service provider;
- (b) if the service provider believes on reasonable grounds that the contents of the mail may cause the child physical or emotional harm, may be examined or read by the service provider or a member of the service provider's staff in the child's presence; and
- (c) shall not be censored or withheld from the child except that articles prohibited by the service provider may be removed from the mail and withheld from the child.

57.—(1) Clause 108 (e) of the Act is amended by striking out “subsection 123 (1)” in the second line and substituting “subsection 122 (1)”.

(2) Clause 108 (f) of the Act is amended by striking out “subsection 120 (1)” in the second line and substituting “subsection 121 (1)”.

58. Subsection 109 (3) of the Act is repealed and the following substituted:

Admission of
children

(3) No child shall be admitted to a secure treatment program unless,

- (a) the child is committed under a court order under section 113;
- (b) the child is admitted on an emergency basis under section 118; or
- (c) the child is detained under the authority of a Lieutenant Governor's warrant issued under the *Criminal Code* (Canada).

59. Clause 112 (4) (f) of the Act is repealed and the following substituted:

- (f) where the child is a member of a band or a native person, a representative chosen by the child's band or native community.

60. The heading immediately preceding section 120 and sections 120, 121, 122, 123 and 124 are repealed and the following substituted:

APPROVALS

120.—(1) The Minister may approve a service provider for the use of, Approval by Minister

- (a) a secure isolation room for the purpose of restraining children in emergencies from causing serious bodily harm or serious property damage under section 124; or
- (b) the intrusive procedures specified in the approval,

and may set out in the approval any conditions and limitations to which it is subject.

(2) The Minister may at any time revoke, suspend or amend an approval given under subsection (1) and shall give the affected service provider notice, with reasons, of the decision to do so. Revocation, etc., of approval

121.—(1) A Director may approve a locked room that complies with the prescribed standards and is located in premises where an approved service or a service purchased by an approved agency is provided, for use for the secure isolation of children, on such terms and conditions as the Director determines. Director's approval

(2) Where a Director is of the opinion that a secure isolation room is unnecessary or is being used in a manner that contravenes this Part or the regulations, the Director may withdraw the approval given under subsection (1) and shall give the affected service provider notice of the withdrawal, with reasons. Withdrawal of approval

REVIEW TEAMS

122.—(1) A service provider who is approved under subsection 120 (1) shall establish an interdisciplinary review team Duty of review team

with the duty of reviewing and approving or refusing the proposed,

- (a) placing of a child in a secure isolation room in an emergency for the purpose of restraining the child; and
- (b) use of intrusive procedures.

Composition
of review
team

(2) A review team shall consist of,

- (a) persons employed by the service provider; and
- (b) at least one person who is not employed by the service provider and is approved by the Minister,

and may also include a legally qualified medical practitioner.

Panel

(3) Any three members of a review team, including at least one member who is described in clause (2) (b), may review the matters described in subsection (1).

Report to
service
provider

(4) A review team shall make a report to the service provider concerning every review conducted under subsection (1) and subsection 127 (1) (review of certain recommended procedures).

Report to
Minister

(5) A review team shall make reports of its activities to the Minister every three months or as the Minister may require.

LOCKING UP

Prohibition

123.—(1) No service provider shall isolate in a locked place a child who is in his or her care or permit the child to be isolated in a locked place, except in a secure isolation room approved under subsection 121 (1) and in accordance with this section, section 124 and the regulations.

Secure
treatment,
secure
custody and
secure
temporary
detention

(2) Subsection (1) does not prohibit the routine locking at night of rooms in the premises of secure treatment programs or in places of secure custody and places of secure temporary detention under Part IV (Young Offenders).

SECURE ISOLATION FOR EMERGENCY PURPOSES

Use of
secure
isolation
room for
restraint

124.—(1) A service provider who is approved under clause 120 (1) (a) may place a child in a secure isolation room in an emergency for the purpose of restraining the child only if,

- (a) the conditions and limitations set out in the Minister's approval are met;
- (b) the child's conduct indicates that the child is likely, in the immediate future, to cause another person serious bodily harm or to cause serious property damage;
- (c) no less restrictive method of restraining the child is practicable; and
- (d) if the child is less than twelve years of age, a Director gives permission for the child to be placed in a secure isolation room because of exceptional circumstances.

(2) A child who is placed in a secure isolation room shall be released within one hour unless the person in charge of the premises approves the child's longer isolation in writing and records the reasons for not restraining the child by a less restrictive method.

One hour limit

(3) The service provider shall ensure that a child who is placed in a secure isolation room is continuously observed by a responsible person.

Continuous observation of child

(4) Where a child is kept in a secure isolation room for more than one hour, the person in charge of the premises shall review the child's isolation at prescribed intervals.

Review

(5) A child who is placed in a secure isolation room for emergency purposes shall be released as soon as the person in charge is satisfied that the child is not likely to cause another person serious bodily harm or to cause serious property damage in the immediate future.

Release

(6) In no event shall a child who is placed in a secure isolation room under this section be kept there for a period that exceeds eight hours in any twenty-four hour period or an aggregate of twenty-four hours in a given week.

Maximum period

(7) A review team shall conduct a review of each of the service provider's placements under this section as soon as possible after each placement and in any event within seventy-two hours of each placement.

Review by review team

(8) In conducting a review under subsection (7), the review team shall gather the prescribed information.

Idem

61. The Act is further amended by adding immediately preceding section 125 the following heading:

INTRUSIVE PROCEDURES

62.—(1) Subsection 125 (3) of the Act is amended by striking out “subsection 124 (1)” in the first and second lines and substituting “clause 120 (1) (b)”.

(2) Clause 125 (6) (a) of the Act is amended by striking out “subsection 124 (1)” in the first and second lines and substituting “clause 120 (1) (b)”.

63. Subsection 127 (1) of the Act is amended by inserting after “team” in the ninth line “including at least one member who is not employed by the service provider”.

64. Subclause 128 (3) (a) (ii) of the Act is amended by striking out “section 124” in the second line and substituting “clause 120 (1) (b)”.

65.—(1) Clause 130 (1) (c) of the Act is repealed and the following substituted:

- (c) “relative”, when used in reference to a child, means,
 - (i) the child’s grandparent,
 - (ii) the child’s great-uncle, great-aunt, uncle or aunt, or
 - (iii) the spouse of a person described in subclause (i) or (ii).

(2) Paragraph 3 of subsection 130 (2) of the Act is repealed and the following substituted:

- 3. The child’s linguistic and cultural heritage.

(3) Subsection 130 (3) of the Act is repealed and the following substituted:

Where child
an aboriginal
person

(3) Where a person is directed in this Part to make an order or determination in the best interests of a child and the child is an Indian or other aboriginal person, the person shall take into consideration the importance, in recognition of the uniqueness of the culture, language, heritage and traditions of Indian and other aboriginal people, of preserving the child’s cultural identity.

66.—(1) Subsection 131 (2) of the Act is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following clause:

- (c) where there is an order giving the Crown in right of another province in Canada permanent custody or guardianship of the child, the written consent of the person authorized under the law in effect in that province to consent to the child’s adoption.

(2) Subsection 131 (4) of the Act, as amended by the Statutes of Ontario, 1987, Chapter 4, Section 3, is further amended by striking out “and” at the end of clause (a) and by striking out clause (b) and substituting the following:

- (b) the society or licensee has given the parent an opportunity to seek independent legal advice with respect to the consent; and
- (c) the society or licensee has ensured that the parent has received counselling concerning the consent to adoption and the available alternatives to consenting to the child’s adoption.

(3) Section 131 of the Act, as amended by the Statutes of Ontario, 1987, chapter 4, section 3, is further amended by adding the following subsections:

(4a) A society shall ensure that the person giving counselling under clause (4) (c) is a person who, in the opinion of the local director, is qualified to give the counselling.

Counsellor in
case of
society

(4b) A licensee shall ensure that the person giving counselling under clause (4) (c),

Counsellor in
case of
licensee

- (a) is a person who, in the opinion of the Director, is qualified to give the counselling; and

- (b) is not the licensee or the person who conducts the homestudy of the adoption application for the child.

(4c) A licensee shall not place a child for adoption until the Director is satisfied that the parent has received the counselling required under clause (4) (c).

Counselling
in case of
licensee

(4d) Where a parent who gives a consent under clause (2) (a) is less than eighteen years of age, the consent is not valid unless before it is given the Official Guardian is satisfied that the consent is fully informed and reflects the person’s true wishes.

Consent by
minors: role
of Official
Guardian

(4) Clause 131 (5) (c) of the Act is repealed and the following substituted:

- (c) in the case of a consent of a parent, the twenty-one day period referred to in subsection (8) has expired,

.

(5) Section 131 is further amended by adding the following subsection:

Transfer of
custody

(5a) A Director may transfer a licensee's rights and responsibilities with respect to a child's care, custody and control to another licensee or to a society if the second named licensee or the society, as the case may be, consents to the transfer and,

- (a) the licence of the first named licensee is revoked or surrendered or the first named licensee ceases to carry on the activity for which it is required; or
- (b) the first named licensee consents to the transfer.

(6) Subsection 131 (6) of the Act is repealed and the following substituted:

Consent of
person to be
adopted

(6) An order for the adoption of a person who is twelve years of age or more shall not be made without the person's written consent.

Idem

(6a) Clauses (4) (b) and (c) and subsections (4a) to (4c) apply with necessary modifications with regard to counselling for a child before he or she consents to an adoption.

(7) Subsection 131 (8) of the Act is amended by striking out "subsection (2) or" in the first line and substituting "clause (2) (a) or subsection".

(8) Section 131 is further amended by adding the following subsection:

Notice of
withdrawal

(8a) When a consent is withdrawn under subsection (8), the society or licensee shall notify all other persons who gave a consent under subsection (2) or (6) of that fact forthwith in writing.

(9) Subsections 131 (10) and (11) of the Act are repealed and the following substituted:

(10) Where an individual who is a spouse makes an application under clause 140 (4) (a), the adoption order shall not be made without the written consent of the other spouse. Consent of applicant's spouse

67. Section 132 of the Act is amended by adding the following subsection:

(2) A society or licensee may apply to the court before an adoption proceeding begins for an order under subsection (1) dispensing with a consent for the adoption of a child, Idem

- (a) in the case of a society, any time before or after placing the child for adoption; and
- (b) in the case of a licensee, any time after a Director approves the proposed placement of the child.

68. Subsection 134 (3) of the Act is repealed.

69. The Act is further amended by adding the following section:

134a.—(1) Where a society intends to place for adoption a child who is already born or who is expected to be born and the child is or will be a member of a band or native community, the society shall notify the representative chosen by the child's band or native community in writing of its intention to place the child for adoption. Placing of child who is member of band or native person

(2) Before giving the notice in respect of a child who is not a Crown ward, the society shall seek the consent of every person who would have a right as a parent to consent to the child's adoption under section 131. Consent of parents

(3) Despite subsection (1), the notice shall not be given in respect of a child who is not a Crown ward without the consent of every person who would have a right as a parent to consent to the child's adoption under section 131. Idem

(4) The notice shall contain the prescribed information, shall be in the prescribed form and shall be served upon the representative in the prescribed manner. Notice

(5) The notice shall identify the child and shall inform the representative that the child may be placed for adoption unless the band or native community, Contents of notice

- (a) serves on the society a notice of intent to propose an alternative plan for the child within the prescribed time; and

- (b) if it serves a notice of intent, serves on the society a written plan for the child within an additional prescribed time.

Idem

(6) If the society has a plan for the child's adoption, the notice shall contain the prescribed information about that plan.

Society to
consider plan

(7) The society shall consider a written plan it receives from a band or native community in the prescribed manner.

Notice of
rejection of
plan

(8) A society that does not intend to follow the written plan shall give the band or native community and the person proposed in its plan as an adoptive parent written notice of that fact in the prescribed form.

Idem

(9) The notice shall be served upon the representative and the person proposed in the plan in the prescribed manner and shall inform them that the band or native community or the person proposed in its plan as an adoptive parent may apply to the Director within the prescribed time for a review of the society's decision.

Review by
Director

(10) The Director shall review the decision of the society and unless the parties agree otherwise, the Director shall hold a hearing.

Parties

(11) The parties to a review are the society, the band or native community, the person that the band or native community proposed as an adoptive parent and the person that the society proposed in its plan, if it has a plan.

Decision of
Director

(12) After conducting the review the Director shall,

- (a) confirm the society's decision, giving written reasons for doing so; or
- (b) rescind the society's decision and do anything further that the society may do under this Part with respect to the child's placement.

Licensees

(13) This section applies to licensees in the same manner it applies to societies, with the following modifications:

1. The notices under clauses (5) (a) and (b) shall be served on a Director.
2. A Director shall consider the plan under subsection (7) and give the notice required under subsection (8).

3. The application for review of a Director's decision referred to in subsection (9) shall be made to the Board and the review referred to in subsections (10) and (11) shall be by the Board.

70.—(1) Section 135 of the Act is amended by adding the following subsection:

(2a) The Director may permit a child placement agency from another jurisdiction in Canada to exercise a power of a society or licensee under subsection (1) or (2) in respect of a child.

Discretion of
Director

(2) Subsections 135 (3), (4) and (5) of the Act are repealed and the following substituted:

(3) No licensee except a licensee exempted under subsection (4) shall place a child with another person for adoption without first notifying a Director of the proposed placement and receiving the Director's approval of it.

Licensee to
notify
Director of
placement

(3a) No licensee except a licensee exempted under subsection (4) shall take, send or attempt to take or send a child who is a resident of Ontario out of Ontario to be placed for adoption without first notifying a Director of the proposed placement and receiving the Director's approval of it.

Idem

(4) A Director may designate a licensee that is an agency as exempt from the requirements of subsections (3) and (3a).

Designation
of licensee

(5) No person shall take or send a child who is not a Crown ward out of Ontario to be placed for adoption until after,

Placements
outside
Ontario

(a) every consent required under subsection 131 (2) has been given and has not been withdrawn under subsection 131 (8); and

(b) the twenty-one day period referred to in subsection 131 (8) has expired.

(3) Subsections 135 (7) and (8) of the Act are repealed and the following substituted:

(7) For the purpose of determining under subsection 143 (1) how long a child has resided with an applicant, the child is deemed to have been placed with the applicant on the later of the day the child actually was placed with the applicant and the day the Director approved the placement.

Deemed date
of placement

Director to
ensure
compliance

(8) A Director who becomes aware of any placement for adoption of a child that has not been registered under subsection (6) shall forthwith direct the society or licensee to comply with any provisions of this Part and the regulations that have not been complied with concerning placement of the child and registration of the placement.

Dispense
with
requirements

(9) A Director may dispense with the requirement that any provision of this Part or the regulations concerning placing children for adoption be complied with before a child is placed for adoption or before the placement is registered in special circumstances as prescribed and in the child's best interests.

Exception:
family
adoptions

(10) Subsections (1), (2), (3), (5), (6), (7), (8) and (9) do not apply to,

- (a) the placement for adoption of a child with the child's relative, the child's parent or a spouse of the child's parent; or
- (b) the taking or sending of a child out of Ontario to be placed for adoption with the child's relative, the child's parent or a spouse of the child's parent.

Interpretation

(11) In subsection (10), "parent" does not include an individual described in clause 3 (2) (c) (individual, other than parent, with lawful custody).

71.—(1) Section 136 of the Act is amended by adding the following subsections:

Additional
information

(2a) A director may require the licensee to provide additional necessary information or necessary documentation regarding a proposed placement before approving it or refusing to approve it.

Approval re
unborn child

(2b) A Director may approve a proposed placement in respect of a child who is already born or in anticipation of the birth of a child.

(2) Clause 136 (5) (b) of the Act is amended by adding after "agency" in the second line "or child placement agency".

(3) Section 136 of the Act is further amended by adding the following subsections:

Approval of
homestudy,
foreign
adoption

(7) If a child placement agency in a jurisdiction outside Canada requests an adoption homestudy of a person with whom it is considering placing a child for adoption, a Director

may approve, approve with conditions or refuse to approve the homestudy.

(8) If a Director imposes a condition on an approval under subsection (7) or refuses to approve the homestudy, the person who is the subject of the homestudy is entitled to a hearing before the Board and sections 181, 182, 184 and 185 of Part IX (Licensing) apply with necessary modifications.

Right to hearing

72. The Act is further amended by adding the following section:

137a. A society or licensee that places a child who is an Indian, native or aboriginal person for adoption shall advise the person with whom the child is placed of the child's legal rights, if any, as an Indian or other aboriginal person and of the culture, language, heritage and traditions of Indian, native or aboriginal people in the child's family background.

Advise of rights of aboriginal children

73. Sections 138 and 139 of the Act are repealed and the following substituted:

138.—(1) A society shall not remove a child who has been placed with a person for adoption without first giving the person ten days notice in writing of the proposed removal and of his or her right to require a review under section 139b and to make submissions to the Director concerning the proposal.

Notice of proposal to remove child

(2) A person may require a review under section 139b within ten days of receiving a notice under subsection (1).

Requiring review after notice

(3) Where a person requires a review, the society shall not remove the child until the Director has completed the review.

Society not to remove child

(4) Subsections (1) and (2) do not apply where,

Exception

(a) a parent who has given a consent under clause 131 (2) (a) withdraws that consent;

(b) in the opinion of the local director, there would be a substantial risk to the child's health or safety during the time necessary to notify the person and hold the review; or

(c) the person with whom the child has been placed requests or consents to the removal.

(5) Where a society removes a child who has been placed with a person for adoption, the society shall notify a Director.

Notice of removal by society

Requiring
review after
removal

(6) If a society removes a child who has been placed with a person for adoption without notice as provided in clause (4) (b), the person may require a review under section 139b within thirty days of the removal.

Requiring
review for
refusal to
place

(7) If a society makes a decision refusing to place a child for adoption with a person, including a foster parent who is caring for the child, the person may require a review under section 139b within thirty days of the refusal.

Notice of
intended
removal by
licensee

139.—(1) Where a licensee proposes to remove a child who has been placed with a person for adoption, the licensee shall notify a Director and the person of that proposal.

Contents of
notice to
person

(2) The notice to the person with whom the child has been placed for adoption shall be in the prescribed form and shall inform the person that the child cannot be removed until after the Director conducts a review of the proposal and approves it and that the person may make submissions to the Director concerning the proposal.

Time for
review

(3) The licensee shall not remove the child until the Director has completed a review under section 139b.

Exception

(4) Subsections (1), (2) and (3) do not apply where,

- (a) a parent who has given a consent under clause 131 (2) (a) withdraws that consent;
- (b) in the opinion of a Director, there would be a substantial risk to the child's health or safety during the time necessary for notice to the person and the review; or
- (c) the person with whom the child has been placed requests or consents to the removal.

Notice to
Director

(5) A licensee shall notify a Director within one working day of removing a child under clause (4) (a) or (c).

Notice to
Director
where no
adoption
order

139a. A licensee shall notify a Director if the licensee has placed a child for adoption, no order for the child's adoption has been made and a year has expired since the later of,

- (a) the earlier of the child's placement for adoption or the giving of the most recent consent under clause 131 (2) (a); or
- (b) the most recent review under section 139b.

139b.—(1) A Director shall review a child's status where the Director receives notice, Director to conduct review

- (a) from a person requiring a review under subsection 138 (3), (6) or (7);
- (b) from a licensee concerning a proposal under subsection 139 (1); or
- (c) from a licensee under section 139a.

(2) Unless the parties to a review agree otherwise, the Director shall hold a hearing. Hearing

(3) The parties to a review are, Parties

- (a) the society or licensee, as the case may be;
- (b) the person with whom the child has been placed or who has required the review; and
- (c) the child if he or she is twelve or more years of age.

(4) The Director shall complete the review as soon as practicable. Timely review

(5) A Director who reviews a child's status shall take into account the importance of continuity in the child's care. Continuity of care

(6) A Director who reviews the child's status may, in the child's best interests, Idem

- (a) where the child is in the care of the person with whom the child was placed for adoption, confirm the child's placement or do anything the society or licensee that placed the child may do with respect to the child's placement or further placement;
- (b) where the child was placed for adoption by a licensee, direct the licensee to place the child in the care and custody of a specified society;
- (c) where the child is in the care, custody and control of a society, direct the society to make an application under Part III to determine whether the child is in need of protection;
- (d) where the child leaves or is removed from the care of the person with whom the child was placed for adoption, do anything the society or licensee that

placed the child may do with respect to the child's further placement; or

- (e) where a parent who gave consent under clause 131 (2) (a) and had charge of the child at the time the consent was given agrees to resume the child's care and custody, direct the society or licensee that placed the child to return the child to the parent.

Deemed
withdrawal of
consent

(7) Where a Director directs a society or licensee to return a child to a parent under clause (6) (e), the parent's consent under clause 131 (2) (a) shall be deemed to be withdrawn.

Transfer of
rights and
responsi-
bilities

(8) A Director who reviews the status of a child who was placed for adoption by a licensee may also, in the best interests of the child, transfer the licensee's rights and responsibilities with respect to the child to another licensee or to a society if the second named licensee or the society, as the case may be, consents to the transfer and,

- (a) in prescribed special circumstances and in the best interests of the child; or
- (b) if the first named licensee consents to the transfer.

74.—(1) Subsection 140 (1) of the Act is repealed and the following substituted:

Adoption of
child

(1) The court may make an order for the adoption of a child in the child's best interests, on the application of the person with whom the child is placed, if the child has been placed for adoption by a society or licensee and,

- (a) the child is less than sixteen years of age; or
- (b) the child is sixteen years of age or more but has not withdrawn from parental control.

(2) Section 140 of the Act is amended by adding the following subsection:

Interpretation

(6) In subsection (2), "parent" does not include an individual described in clause 3 (2) (c) (individual, other than parent, with lawful custody).

75. Section 141 of the Act is amended by adding the following subsection:

Consider
wishes of
child under
twelve

(2) Before making an order under section 140 in respect of a child less than twelve years of age, the court shall consider

the views and wishes of the child where they can be reasonably ascertained.

76. Subsection 143 (1) of the Act is repealed and the following substituted:

(1) Where an application is made for an order for the adoption of a child under subsection 140 (1), a Director shall, before the hearing, file a written statement with the court indicating,

Director's statement

- (a) that the child has resided with the applicant for at least six months and, in the Director's opinion it would be in the child's best interests to make the order;
- (b) that for specified reasons it would be in the child's best interests, in the Director's opinion, to make the order although the child has resided with the applicant for less than six months; or
- (c) that the child has resided with the applicant for at least six months and, in the Director's opinion, it would not be in the child's best interests to make the order.

(1a) The Director's written statement may refer to any additional circumstances that the Director wishes to bring to the court's attention.

Idem

77. Subsection 146 (1) of the Act is amended by striking out "*Family Law Reform Act*" in the fourth line and substituting "*Family Law Act, 1986*".

78. Subsection 150 (5) of the Act is repealed.

79. Section 153 of the Act is repealed and the following substituted:

153.—(1) An adoption effected in another province or a territory of Canada, before or after the day this section comes into force, has the same effect in Ontario as an adoption under this Part.

Effect of adoption in Canada outside Ontario

(2) An adoption effected in a jurisdiction outside Canada, before or after the day this section comes into force, has the same effect in Ontario as an adoption under this Part if,

Effect of foreign adoption

- (a) the adoption order was granted according to the law of the other jurisdiction;

- (b) the adoption order established a relationship of parent and child; and
- (c) one of the following persons had a substantial connection to the jurisdiction that granted the adoption order when the order was granted:
 - 1. The child.
 - 2. A party to the adoption.
 - 3. The birth mother.
 - 4. A person whose consent to the adoption was required under the law of the jurisdiction that granted the adoption order.

80. Subsection 158a (2) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is amended by adding the following clause:

R.S.C. 1985,
c. I-5

- (j) the disclosure by the Registrar of Adoption Information to the Registrar under the *Indian Act* (Canada) of identifying or non-identifying information for the purpose of determining whether an adopted person is a member of a band or has Indian status, if the disclosure is requested by,
 - (i) the adopted person, if he or she has attained the age of eighteen years,
 - (ii) the parent of the adopted person, if the adopted person has not attained the age of eighteen years,
 - (iii) a society, if the adopted person is placed with the society as a ward of the Crown or is a ward of the society, or
 - (iv) the Registrar under the *Indian Act* (Canada).

81.—(1) The definition of “birth sibling” in subsection 158b (3) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is repealed and the following substituted:

“birth sibling” means a child of the same birth parent as an adopted person, and includes,

- (a) the birth parent’s adopted child,

- (b) a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family, and
- (c) another adopted person who has the same birth parent as the first-named adopted person.

(2) Subsection 158b (4) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is amended by adding the following paragraph:

- 1a. An adopted person who is placed with a society as a ward of the Crown or is a ward of a society, if the person has the written consent of the society.

82.—(1) Subsection 158c (2) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is amended by adding the following paragraph:

- 1a. An adopted person who is placed with a society as a ward of the Crown or is a ward of a society, if the person has the written consent of the society.

(2) Section 158c of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is amended by adding the following subsections:

(2a) A person applying to be named in the register may require that the Registrar not disclose to a specified person that he or she is named or is to be named in the register.

Condition to
being named

.

(5a) Despite subsection (5), the Registrar shall not give two persons an opportunity to consent to disclosure of information if one of them named a specified person under subsection (2a) and the other is the specified person.

Exception

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(6a) The Registrar may require the Registrar General under the *Vital Statistics Act* to provide to the Registrar an extract of information from the adopted person's original birth registration.

Information
from
Registrar
General
R.S.O. 1980,
c. 524

.

(13a) The Registrar may disclose information from an adopted person's original birth registration to the appropriate official of a government in another country, with the consent

Disclosure to
another
governmental
authority

of the adopted person, if that official requires that information to permit the adopted person to emigrate to that country, to become employed in that country or to receive benefits.

83. Subsection 158e (1) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is amended by adding the following paragraph:

- 1a. Where the adopted person was a ward of the Crown immediately before being adopted, a person who was a party to the Crown wardship proceeding as a parent under paragraph 3 of subsection 39 (1) or a predecessor of that provision.

84. The definition of “birth sibling” in subsection 158f (1) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is repealed and the following substituted:

“birth sibling” means a child of the same birth parent as an adopted person, and includes,

- (a) the birth parent’s adopted child,
- (b) a person whom the birth parent has demonstrated a settled intention to treat as a child of his or her family, and
- (c) another adopted person who has the same birth parent as the first-named adopted person.

85.—(1) Subsection 158g (1) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is repealed and the following substituted:

Refusal to
disclose non-
identifying
information

(1) The disclosure of non-identifying information that a person would otherwise be entitled to receive under section 158b or 158f may be refused,

- (a) by the Registrar if he or she believes on reasonable grounds that the disclosure might result in serious physical or emotional harm to any person;
- (b) by a society if the local director believes on reasonable grounds that the disclosure might result in serious physical or emotional harm to any person;
- (c) by a licensee if the Registrar believes on reasonable grounds that the disclosure might result in serious physical or emotional harm to any person.

(2) Subsection 158g (2) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 7, is repealed and the following substituted:

(2) The disclosure of identifying information that a person would otherwise be entitled to receive under clause 158a (2) (j) or section 158c may be refused by the Registrar or by a society if the Registrar believes on reasonable grounds that the disclosure might result in serious physical or emotional harm to any person.

Refusal to
disclose
identifying
information

86.—(1) Section 159 of the Act is amended by striking out “give, receive or agree to” in the second line and substituting “request, offer, demand, give, receive or agree to request, offer, demand”.

(2) Clause 159 (d) of the Act is amended by inserting after “licensee” in the first line “or society”.

87.—(1) Clause 162 (a) of the Act is repealed and the following substituted:

(a) “family”, when used in reference to a person, means the person’s parents, children and spouse.

(2) Subclause 162 (b) (ii) of the Act is amended by striking out “is recorded in connection with” in the first line and substituting “relates to”.

(3) Section 162 of the Act is amended by adding the following clause:

(c) “spouse” means either of a man and woman who,

(i) are married to each other,

(ii) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Act,

(iii) are not married to each other and have cohabited continuously for a period of not less than three years, or

(iv) are not married to each other and have cohabited in a relationship of some permanence, if they are the natural or adoptive parents of a child.

88. Subsection 163 (1) of the Act is repealed and the following substituted:

Retroactivity

(1) This Part applies to any record regardless of whether it was recorded before or after this Part comes into force.

89. The Act is further amended by adding the following sections:

COLLECTION OF RECORDS

Definitions

163a.—(1) In this section,

“capacity” has the same meaning as in clause 4 (1) (a);

“nearest relative”, when used in reference to a child who is less than sixteen years of age, means a person with lawful custody of the child, and when used in reference to a person who is sixteen years of age or older, means the person’s nearest relative determined under subclauses 4 (1) (b) (i) through (vi).

Collection of information

(2) No service provider shall collect information that relates to a person unless the collection is necessary to the proper administration of a lawfully authorized activity of the service provider.

Manner of collection

(3) A service provider shall collect information that relates to a person only from that person unless,

- (a) in the case of a person who is sixteen years of age or older and has capacity, he or she authorizes another manner of collection;
- (b) in the case of a person who is less than sixteen years of age or lacks capacity, his or her nearest relative authorizes another manner of collection;
- (c) the information is collected to investigate allegations, information or evidence that a child is or may be in need of protection or for the purpose of the conduct of a proceeding or possible proceeding under Part III;
- (d) the information is collected for the purpose of the conduct of a proceeding or possible proceeding, other than a proceeding under Part III, before a court or judicial or quasi-judicial tribunal;

- (e) another manner of collection is authorized by or under a statute; or
- (f) another service provider is authorized by or under a statute to disclose the information to the service provider.

(4) A person's authorization under clause (3) (a) or (b) is not valid unless the service provider informs the person of the principal purpose or purposes for which the information is intended to be used and that the service provider cannot collect the information without his or her consent.

Notice to person

(5) A service provider who, under clause (3) (d), (e) or (f), collects information that relates to a person shall promptly give written notice to the person of the collection, the legal authority for the collection and the principal purpose or purposes for which the information is intended to be used.

Idem

(6) A service provider shall not use information that is in its custody or under its control and that relates to a person unless,

Use of information

- (a) the person to whom it relates has identified it in particular and consented to its use;
- (b) it is used for the purpose for which it was obtained or compiled or for a consistent purpose; or
- (c) it may be disclosed without the person's consent under this Act.

163b.—(1) The Ministry may collect information that relates to a person from a person other than the person to whom the information relates if the information relates to allegations, information or evidence that a child is or may be in need of protection.

Indirect collection by Ministry

(2) The Ministry may disclose to a society or other child protection authority information that relates to a person if the information relates to allegations, information or evidence that a child is or may be in need of protection.

Disclosure by Ministry

90.—(1) Subsection 164 (1) of the Act is amended by striking out “or” in the first line and by inserting after “provider” in the second line “or foster parent”.

(2) Clause 164 (2) (a) of the Act is repealed and the following substituted:

(a) required or permitted by,

(i) this Act or another Act or a regulation made under this Act or another Act, or

(ii) an order of a court, including a court other than the Provincial Court (Family Division) and the Unified Family Court; or

.

(3) Section 164 of the Act is amended by adding the following subsection:

Disclosure of
part of a
record

(3) A person's record may be severed and a part of it disclosed if this Part permits or requires the disclosure of some information in it and does not permit the disclosure of other information in it.

91.—(1) Clause 166 (1) (a) of the Act is repealed.

(2) Clause 166 (1) (b) of the Act is amended by adding at the end "or being considered for placement in the foster parent's care".

(3) Clause 166 (1) (c) of the Act is repealed and the following substituted:

(c) to employees, agents, officers and professional advisors of the service provider, to students on placement with the service provider and to volunteers working for the service provider if they require access to the person's record for the performance of their duties.

(4) Subsection 166 (1) of the Act is amended by adding the following clause:

(ca) to a society, a child protection agency from another jurisdiction or a peace officer if the information relates to allegations, information or evidence that a child is or may be in need of protection.

(5) Section 166 of the Act is amended by adding the following subsection:

Idem

(1a) A society may disclose to a person who is a Crown ward or a former Crown ward information that relates to the person if that disclosure, alone or in combination with other

information will not in the circumstances reveal the identity of any other person.

92.—(1) Subsection 167 (1) of the Act is amended by adding the following clause:

- (aa) the records of a child who is under the age of sixteen years if the person is providing legal representation for the child.

(2) Section 167 of the Act is amended by adding the following subsections:

(1a) Clause (1) (c) applies with necessary modifications to a society as if it were a person. Idem

(1b) Subsection (1) does not apply to records or reports ordered withheld from a person by a court, including a court other than the Provincial Court (Family Division) and the Unified Family Court. Exception: court order

(3) Subsection 167 (2) of the Act is amended by striking out “to the child’s parent” in the fourth line.

(4) Subsection 167 (3) of the Act is repealed.

(5) Subsection 167 (4) of the Act is repealed and the following substituted:

(4) The consent of a child’s parent is not required for access to a record under subsection (1). Consent not required

(6) Section 167 is further amended by adding the following subsections:

(5) Subject to subsection (6), a person who is given access to a record under this section shall be given a copy of it unless it would not be reasonably practicable to reproduce the record by reason of its length or nature, in which case the person shall be given an opportunity to examine the record in accordance with the regulations. Copy of record

(6) Where a person requests the opportunity to examine a record and it is reasonably practicable to give the person that opportunity, the service provider shall allow the person to examine the record in accordance with the regulations. Access to original record

(7) Where a person examines a record and wishes to have portions of it copied, the person shall be given a copy of those Copy of part

portions unless it would not be reasonably practicable to reproduce them by reason of their length or nature.

93. Subsections 168 (1) and (2) of the Act are repealed and the following substituted:

Where access
may be
refused

(1) A service provider may refuse to give a person referred to in subsection 167 (1) access to part or all of a record if the service provider believes on reasonable grounds that the disclosure could be expected to seriously threaten the safety or the physical or emotional health of any person.

94. Subsection 170 (3) of the Act is repealed and the following substituted:

Contents of
notice

(3) A notice of refusal to make a correction under clause (2) (b) shall contain a statement,

(a) of the person's right under subsection (4) to require that a statement of disagreement be attached to the record; and

(b) of the person's right under subsection 171 (1) to request a review of the matter.

Statement of
disagreement

(4) If a service provider refuses to make a correction, the person may require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made.

Notice of
change of
disagreement

(5) A person may require a service provider to give notice of a correction or statement of disagreement to any person or body to whom the information has been disclosed within the year before the time he or she requests the correction or requires the statement of disagreement.

95. Section 171 of the Act is amended by adding the following subsections:

Parties

(3a) The parties to a review are the person requesting the review, the service provider and any other persons who, in the opinion of the Board, may be affected by the review.

Represent-
ations
R.S.O. 1980,
c. 484

(3b) Despite the *Statutory Powers Procedure Act*, where the Board is reviewing a refusal to give access to a record, it shall give the parties an opportunity to make representations, but no party is entitled to be present during, to have access to or to comment on representations made by another party.

96. Section 173 of the Act is repealed and the following substituted:

173.—(1) No proceeding shall be instituted against an employee of a service provider or a person acting under the service provider's authority for damages resulting from the disclosure or non-disclosure in good faith of a record or any part of a record under this Part, or from the failure to give a notice required under this Part if reasonable care is taken to give the required notice. Protection from civil proceeding

(2) Subsection (1) does not relieve a service provider of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject and the service provider is liable for any such tort as if subsection (1) had not been enacted. Vicarious liability preserved

97. Clause 174 (2) (b) of the Act is repealed.

98. Section 176 of the Act is amended by adding the following subsections:

(1a) Clause (1) (b) does not apply to a residence described in subclause 175 (a) (iii), (iv), (v), (vi), (vii), (viii), (ix) or (x). Exception

(1b) Despite clause (1) (a), a Director may authorize a society to place five or more children not of common parentage in a foster home that does not have a licence if additional supports are provided to the foster parents and the Director believes on reasonable grounds that the placement is in the best interests of the children. Exception

(1c) A Director may make an authorization under subsection (1b) subject to any conditions he or she considers appropriate in the best interests of the children. Idem

(1d) The Director shall review a placement under subsection (1b) at the prescribed frequency and shall not authorize the continued placement of more than four children unless the requirements of that subsection and any conditions under subsection (1c) continue to be met. Idem

(1e) Subsection (1) does not apply to the direct or indirect provision of residential care to a child who is to be placed for adoption. Exception

99. Subsection 177 (4) of the Act is repealed.

100. Section 179 of the Act is amended by striking out “or” at the end of clause (d), by striking out clause (e) and by adding the following clauses:

- (e) a change has occurred in the employees, officers or directors of the licensee that would, if the licensee were applying for the licence in the first instance, afford grounds under clause 178 (a) or (b) for refusing to issue the licence; or
- (f) information about an employee, officer or director of the licensee has come to the Director’s attention after issuance of the licence which would, if the licensee were applying for the licence in the first instance, afford ground under clause 178 (a) or (b) for refusing to issue the licence.

101. Section 181 of the Act is amended by adding the following subsection:

Continuation
of licence
pending
hearing

(4) Where a licensee applies for renewal of a licence under section 176 and the Director proposes to impose new terms and conditions on the licence, the licence shall be deemed to continue until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision.

102. Subsection 184 (8) of the Act is amended by striking out “ninety” in the third line and substituting “120”.

103. Section 186 of the Act is amended by adding the following subsection:

Licence
deemed
expired

(1a) A licence is deemed to expire on the day it is delivered to the Minister under subsection (1).

104. Section 190 of the Act, as amended by the Statutes of Ontario, 1987, chapter 4, section 10, is further amended by adding the following subsection:

Legal advice

(6) The Board may obtain any independent legal advice it considers necessary to perform its duties.

105.—(1) Paragraph 3 of subsection 197 (1) of the Act is repealed.

(2) Paragraph 8 of subsection 197 (1) is amended by inserting after “service” in the first line “child and family intervention service”.

(3) Subsection 197 (1) of the Act is amended by adding the following paragraph:

- 33. prescribing forms and providing for their use.

106. Section 198 of the Act is amended by adding the following clauses:

- (f) prescribing the period of time within which a child may apply to the Board under subsection 36 (1);
- (g) prescribing powers, duties and procedures of the Board while acting under this Part;
- (h) prescribing forms and providing for their use.

107. Subsection 200 (1) of the Act is amended by adding the following clause:

- (o) prescribing forms and providing for their use.

108. Section 201 of the Act is amended by adding the following clause:

- (d) prescribing forms and providing for their use.

109.—(1) Clause 202 (e) of the Act is amended by striking out “121 (6)” in the second line and substituting “124 (4)”.

(2) Clause 202 (f) of the Act is repealed and the following substituted:

- (f) respecting the notice given by a Director under subsection 121 (2).

(3) Clause 202 (h) of the Act is repealed and the following substituted:

- (h) prescribing the information a review team is to gather under subsection 124 (8);
- (ha) prescribing powers, duties and procedures for the Board while acting under this Part.

110.—(1) Subsection 203 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 4, section 11, is further amended by adding the following clauses:

- (aa) respecting the matters the Director is to consider in deciding whether a person has received adequate counselling;
- (ab) prescribing the form, the manner of service and the information respecting any notice given under section 134a;
- (ac) prescribing the time within which a notice of intent and a written plan are to be served under subsection 134a (5);
- (ad) respecting a society's consideration of a written plan under subsection 134a (6);
- (ae) prescribing the time within which an application to the Director is to be made under subsection 134a (7);
- (af) respecting procedures to be used by licensees and adoption agencies with respect to the placement of children;

.

- (ba) prescribing special circumstances for the purposes of subsections 135 (9) and 139b (7);

.

- (ca) prescribing the form of notice under subsection 139 (2).

(2) Clause 203 (1) (ec) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 11, is amended by striking out “under section 158h” in the second line and substituting “while acting under this Part”.

111.—(1) Clause 204 (b) of the Act is repealed and the following substituted:

- (b) respecting examination of records under section 167;
- (ba) prescribing powers, duties and procedures for the Board while acting under this Part.

(2) Section 204 of the Act is amended by adding the following clause:

- (e) prescribing forms and providing for their use.

112.—(1) Section 205 of the Act is amended by adding the following clause:

- (ba) prescribing the frequency of reviews under subsection 176 (1d).

(2) Clause 205 (d) of the Act is repealed.

113. Section 206 of the Act is amended by adding the following clause:

- (c) prescribing forms and providing for their use.

114. No proceeding commenced by a society before the day this section comes into force is invalid by reason only that the society used a name other than its proper corporate name. Validation of proceedings

115.—(1) Subsection 10a (1) of the *Vital Statistics Act*, as enacted by the Statutes of Ontario, 1986, chapter 9, section 2, is amended by adding the following clause: R.S.O. 1980, c. 524

- (ba) in the case of an adopted child, to change the child's surname to any surname that the child could have been given under subsection 7 (3), (4) or (5) if the child had been born to his or her adoptive parents.

(2) Section 24 of the Act, as amended by the Statutes of Ontario, 1986, chapter 9, section 5, is repealed and the following substituted:

24.—(1) Upon receiving a certified copy of an adoption order transmitted under subsection 156 (3) of the *Child and Family Services Act, 1984* or a predecessor of that subsection, the Registrar General shall register the order. Registration of adoption orders
1984, c. 55

(2) Upon receiving a certified copy of an order, judgment or decree of adoption in respect of a child who was born in Ontario made by a court of competent jurisdiction of another province or territory of Canada, issued under the seal of the proper certifying authority, the Registrar General shall register the order, judgment or decree. Idem

(3) The Registrar General shall register an order, judgment or decree of adoption in respect of a child who was born in Ontario upon receiving a certified copy of it if the order, judgment or decree, Idem

- (a) is made by a court of competent jurisdiction outside Canada;
- (b) is issued under the seal of the proper certifying authority; and
- (c) has the same effect in Ontario, under section 153 of the *Child and Family Services Act, 1984*, as an adoption under Part VII of that Act.

Notation of
adoption

(4) The Registrar General shall cause a notation of the adoption of a person and of any change of name consequent on the adoption with a reference to the registration of the order to be made on the registration of the birth of the person and shall cause a reference to the registration of the birth to be endorsed on the copy of the order, judgment or decree if,

- (a) the birth of the person adopted was registered in Ontario before the adoption; or
- (b) the birth of the person is registered in Ontario after the adoption in accordance with this Act.

Order to set
aside birth
registration

(5) If a registration made under section 9, 10, 11 or 12 or this section has been notated under subsection (4), the Registrar General, upon application for the re-registration of the birth in the prescribed form, may by order set aside the registration.

New
registration

(6) If the Registrar General sets aside a registration under subsection (5) in respect of a person whose order, judgment or decree of adoption was granted before this section is proclaimed in force, the Registrar General shall cause a re-registration of the birth in accordance with the facts contained in the order, judgment or decree as if the adopted person had on the date and in the place of birth recorded in the original registration been born to the adopting parent.

Idem

(7) The date of the re-registration under subsection (6) shall be the date of the original registration.

Re-
registration

(8) If the Registrar General sets aside a registration under subsection (5) in respect of a person whose order, judgment or decree of adoption is granted after this section is proclaimed in force, the Registrar General shall cause a re-registration of the birth in accordance with the facts contained in the order, judgment or decree on a form that acknowledges the adoption.

(9) If a birth is re-registered under subsection (6) or (8), the Registrar General shall cause the previous registration to be withdrawn from the registration files and kept in a separate file and sealed. Sealing of original registration

(10) The following persons may apply for a re-registration under subsection (6) or (8): Who may apply

1. The individual whose birth is re-registered, if he or she is sixteen years of age or older.
2. The parents of the individual.
3. One parent of the individual, if the other parent is dead or mentally incapable.
4. The person with lawful custody of the individual, if both parents are dead or mentally incapable.

(11) A birth certificate shall be issued in accordance with the re-registration if application is made for a person's birth certificate and the person's birth is re-registered under subsection (6) or (8). Birth certificate

(12) If a registration of a birth has been set aside under subsection (5), the holder of a birth certificate in respect of the registration or of a certified copy of the registration shall, forthwith upon demand by the Registrar General, deliver it to the Registrar General for cancellation. Idem

(13) No certified copy of a birth registration with a notation of an adoption on it shall be issued except by order of a court. Certified copy not to be issued

(14) No information from a birth registration with a notation of an adoption shall be disclosed to any person unless, Information not to be disclosed

- (a) the disclosure is authorized under subsection (15) or clause 55 (j); or
- (b) the information is required for the issuance of a birth certificate that does not provide particulars of the parents.

(15) The Registrar General shall, at the request of the Registrar of Adoption Information appointed under the *Child and Family Services Act, 1984*, provide the Registrar with the prescribed information from a birth registration on which a notation is made under subsection (4) or that has been sealed under subsection (9). Extract of information to be provided to Registrar of Adoption Information

(3) Section 24a of the Act, as enacted by the Statutes of Ontario, 1987, chapter 4, section 13, is repealed.

1987, c. 25

116. Paragraph 11 of subsection 67 (3) of the *Freedom of Information and Protection of Privacy Act, 1987*, as re-enacted by the Statutes of Ontario, 1989, chapter 71, section 2, is repealed and the following substituted:

R.S.O. 1980,
c. 524

11. Subsections 24 (9) and (14) of the *Vital Statistics Act*.

Commence-
ment

117. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

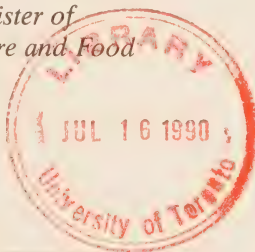
118. The short title of this Act is the *Child and Family Services Statute Law Amendment Act, 1990*.

Bill 234

An Act to establish a Corporation to provide for Agricultural Insurance

The Hon. D. Ramsay

*Minister of
Agriculture and Food*



1st Reading June 27th, 1990

2nd Reading

3rd Reading

Royal Assent

Projet de loi 234

Loi portant création d'une personne morale offrant de l'assurance agricole

L'honorable D. Ramsay

*ministre de
l'Agriculture et de l'Alimentation*

1^{re} lecture 27 juin 1990

2^e lecture

3^e lecture

sanction royale

EXPLANATORY NOTE

The purpose of the Bill is to establish Agricorp as a corporation without share capital and as a Crown agency.

The principal objects of Agricorp are to administer plans of crop insurance under the *Crop Insurance Act (Ontario), 1990* that are presently administered by the Crop Insurance Commission of Ontario and plans of farm income stabilization under the *Farm Income Stabilization Act, 1990* that are presently administered by the Farm Income Stabilization Commission of Ontario.

NOTE EXPLICATIVE

Le projet de loi a pour objet de créer Agricorp à titre de personne morale sans capital-actions et d'organisme de la Couronne.

Agricorp a pour mission de gérer les régimes d'assurance-récolte visés par la *Loi de 1990 sur l'assurance-récolte (Ontario)* et présentement gérés par la Commission ontarienne de l'assurance-récolte, ainsi que les régimes de stabilisation des revenus agricoles visés par la *Loi de 1990 sur la stabilisation des revenus agricoles*, qui sont présentement gérés par la Commission de stabilisation des revenus agricoles de l'Ontario.

Bill 234**1990****An Act to establish a Corporation to provide for
Agricultural Insurance**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definition **1.** In this Act, “Board” means the board consisting of all members of Agricorp. (“conseil”)

Agricorp
established **2.—(1)** There is hereby established a corporation without share capital to be known in French and English as Agricorp.

Appointment
of members' **(2)** Agricorp shall consist of as many members, not fewer than five, as the Lieutenant Governor in Council may appoint.

Term of
members' appointment **(3)** The members shall be appointed for a term of not more than three years.

R.S.O. 1980,
cc. 95, 96 do
not apply **(4)** The *Corporations Act* and the *Corporations Information Act* do not apply to Agricorp.

Objects **3.** The objects of Agricorp are,

1990, c. ... (a) to administer plans of crop insurance under the *Crop Insurance Act (Ontario), 1990* and to perform the duties conferred on it by that Act;

1990, c. ... (b) to administer plans of farm income stabilization under the *Farm Income Stabilization Act, 1990* and to perform the duties conferred on it by that Act;

Projet de loi 234

1990

Loi portant création d'une personne morale offrant de l'assurance agricole

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Dans la présente loi, «conseil» s'entend du conseil regroupant tous les membres d'Agricorp. («Board») Définition

2 (1) Est créée à titre de personne morale sans capital-actions la personne morale nommée Agricorp en français et en anglais. Création
d'Agricorp

(2) Agricorp se compose de cinq membres ou plus que nomme le lieutenant-gouverneur en conseil. Nomination
des membres

(3) Le mandat des membres ne doit pas dépasser trois ans. Mandat des
membres

(4) La *Loi sur les personnes morales* et la *Loi sur les renseignements exigés des personnes morales* ne s'appliquent pas à Agricorp. Non-
application
des chap. 95
et 96 des
L.R.O. de
1980

3 Agricorp a pour mission : Mission
d'Agricorp

a) de gérer les régimes d'assurance-récolte visés par la *Loi de 1990 sur l'assurance-récolte (Ontario)* et d'exercer les fonctions qui lui sont conférées par cette loi; 1990, chap. ...

b) de gérer les régimes de stabilisation des revenus agricoles visés par la *Loi de 1990 sur la stabilisation des revenus agricoles* et d'exercer les fonctions qui lui sont conférées par cette loi; 1990, chap. ...

- (c) to perform any other duties conferred on it under any other Act of Ontario or order of the Lieutenant Governor in Council; and
- (d) with the approval of the Lieutenant Governor in Council, to perform any duties conferred on it under any agreement that it has entered into with the Government of Canada for the advancement or support of agriculture or food.

Board of
members

4.—(1) The affairs of Agricorp shall be managed and controlled by the Board.

Chair and
vice-chair

(2) The Lieutenant Governor in Council shall designate one of the members as chair and one or more of the members as vice-chair of the Board.

Quorum

(3) Two members constitute a quorum of the Board.

By-laws

5.—(1) The Board may make by-laws regulating its proceedings and may establish committees for the control and conduct of its affairs.

Committees

(2) A by-law establishing a committee of the Board may delegate to the committee those powers and duties of the Board determined in the by-law.

R.S.O. 1980,
c. 446 does
not apply

(3) The *Regulations Act* does not apply to by-laws made under this section.

Remuner-
ation of
members not
employed in
the public
service of
Ontario

6.—(1) Members of Agricorp who are not employed in the public service of Ontario shall receive the remuneration that the Lieutenant Governor in Council determines, payable out of the general fund of Agricorp.

Remuner-
ation of
members
employed in
the public
service of
Ontario

(2) Members of Agricorp who are employed in the public service of Ontario shall receive an honorarium determined by Agricorp in recognition of salary lost.

Expenses of
members

(3) Agricorp shall pay the expenses incurred by members in the course of their duties at rates determined by Agricorp.

Protection
from being
called as a
witness

(4) No member shall be required to give testimony in any proceedings with regard to information obtained in the discharge of the member's duties.

Employees

7.—(1) The Board shall,

- c) d'exercer toutes les autres fonctions qui lui sont conférées par les autres lois de l'Ontario ou sur décret du lieutenant-gouverneur en conseil;
- d) avec l'approbation du lieutenant-gouverneur en conseil, d'exercer les fonctions qui lui sont conférées par les accords conclus avec le gouvernement du Canada en vue de favoriser ou de soutenir l'agriculture ou l'alimentation.

4 (1) Le conseil assure l'administration et la direction des affaires d'Agricorp. Conseil

(2) Le lieutenant-gouverneur en conseil nomme un des membres à la présidence du conseil et un ou plusieurs autres à la vice-présidence. Président et vice-présidents

(3) Deux membres du conseil constituent le quorum. Quorum

5 (1) Le conseil peut adopter des règlements administratifs régissant ses délibérations et créer des comités pour l'administration et la conduite de ses affaires. Règlements administratifs

(2) Le règlement administratif qui crée un comité du conseil peut confier à ce comité les pouvoirs et les fonctions du conseil que précise le règlement administratif. Comités

(3) La *Loi sur les règlements* ne s'applique pas aux règlements administratifs adoptés en vertu du présent article. Non-application du chap. 446 des L.R.O. de 1980

6 (1) Les membres d'Agricorp qui ne sont pas des employés de la fonction publique de l'Ontario reçoivent la rémunération que fixe le lieutenant-gouverneur en conseil et qui est prélevée sur le fonds d'administration générale d'Agricorp. Rémunération des membres n'étant pas fonctionnaires de l'Ontario

(2) Les membres d'Agricorp qui sont des employés de la fonction publique de l'Ontario reçoivent, en reconnaissance de leur perte de traitement, les honoraires que fixe Agricorp. Rémunération des membres fonctionnaires de l'Ontario

(3) Agricorp règle les frais que ses membres engagent dans l'exercice de leurs fonctions selon le barème qu'elle établit. Frais des membres

(4) Les membres ne sont pas tenus, dans les instances, de témoigner relativement aux renseignements obtenus dans l'exercice de leurs fonctions. Dispense de témoigner

7 (1) Le conseil : Employés

- (a) employ those persons that the Board considers necessary for the proper conduct of the business of Agricorp; and
- (b) fix and pay the salaries or other remuneration and benefits of employees.

Pension Plan
R.S.O. 1980,
c. 418

(2) Employees of Agricorp are Crown employees as defined in the *Public Service Act* and are required to be members of the Public Service Pension Plan.

Agricorp a
Crown
agency

8.—(1) Agricorp is for all purposes an agent of Her Majesty and its powers may be exercised only as an agent of Her Majesty.

Protection
from
personal
liability

(2) No member or employee of Agricorp is personally liable for anything done by that member or employee in good faith under or purporting to be done under this Act or any other Act of Ontario or Canada.

Liability for
torts of
employees

(3) Subsections (1) and (2) shall be deemed not to relieve Agricorp of liability in respect of a tort committed by a member or employee of Agricorp.

Powers

9.—(1) Agricorp may, for the purpose of furthering its objects,

- (a) exercise the powers conferred on it under any Act of the Parliament of Canada or order of the Governor in Council;
- (b) acquire, hold, maintain, use or dispose of real property;
- (c) establish and collect fees and service charges related to the exercise of its powers or the carrying out of its duties;
- (d) with the approval of the Treasurer of Ontario, borrow money for its purposes upon its credit and give security against its property by way of mortgage, debenture or otherwise;
- (e) invest its money in any investment that the Treasurer of Ontario may make under section 3 of the *Financial Administration Act*, or that the Treasurer of Ontario has otherwise approved;
- (f) with the approval of the Lieutenant Governor in Council, create subsidiaries;

R.S.O. 1980,
c. 161

- a) emploie les personnes qu'il juge nécessaires à la bonne marche des activités d'Agricorp;
- b) fixe et verse les traitements ou toute autre rémunération, ainsi que les avantages sociaux des employés.

(2) Les employés d'Agricorp sont des employés de la Couronne au sens de la *Loi sur la fonction publique* et sont tenus de participer au régime de retraite des fonctionnaires.

Régime de
retraite
L.R.O. 1980.
chap. 418

8 (1) Agricorp est, à toutes fins, un mandataire de Sa Majesté et ne peut exercer ses pouvoirs qu'à ce titre.

Organisme de
la Couronne

(2) Les membres ou employés d'Agricorp ne sont pas tenus personnellement responsables d'un acte qu'ils ont accompli de bonne foi ou qui paraît avoir été accompli aux termes de la présente loi ou d'une autre loi de l'Ontario ou du Canada.

Immunité

(3) Les paragraphes (1) et (2) sont réputés ne pas dégager Agricorp de sa responsabilité à l'égard des délits civils commis par ses membres ou employés.

Responsabilité
délictuelle

9 (1) Afin de réaliser sa mission, Agricorp peut :

Pouvoirs

- a) exercer les pouvoirs qui lui sont conférés en vertu d'une loi du Parlement du Canada ou d'un décret du gouverneur en conseil;
- b) acquérir, détenir, entretenir, utiliser ou aliéner des biens immeubles;
- c) fixer et percevoir les droits et frais de gestion liés à l'exercice de ses pouvoirs ou de ses fonctions;
- d) avec l'approbation du trésorier de l'Ontario, emprunter les sommes nécessaires à ses fins sur son crédit et donner ses biens en garantie, notamment au moyen d'une hypothèque ou de débentures;
- e) investir ses fonds dans les placements que le trésorier de l'Ontario peut faire en vertu de l'article 3 de la *Loi sur l'administration financière* ou qu'il a autrement approuvé;
- f) avec l'approbation du lieutenant-gouverneur en conseil, créer des filiales;

L.R.O. 1980.
chap. 161

- (g) with the approval of the Lieutenant Governor in Council, enter into joint ventures and create joint Crown agencies with the Government of Canada or any of its agencies;
- (h) inquire into any matter relating to its jurisdiction;
- (i) provide advice to the Minister of Agriculture and Food on any matter relating to its jurisdiction.

Inquiry

R.S.O. 1980,
c. 411

(2) For the purpose of an inquiry under clause (1) (h), Agricorp has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

Guarantee of
loans

(3) The Lieutenant Governor in Council may, upon the terms that the Lieutenant Governor in Council considers proper, guarantee the payment of any loan, together with interest on that loan, that Agricorp borrows for the purpose of furthering its objects.

Payment of
surplus funds

10. Upon the order of the Lieutenant Governor in Council, Agricorp shall pay into the Consolidated Revenue Fund the surplus money in its general fund as the Treasurer of Ontario determines.

Realty tax
exemption

11. Real property owned, leased to or occupied by Agricorp is not liable to taxation for municipal or school purposes if it is actually used and occupied for the purposes of Agricorp.

Auditors

R.S.O. 1980,
c. 405

12. The Board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and financial transactions of Agricorp annually.

Annual
report

13.—(1) The Board shall make a report annually, within 120 days after the end of Agricorp's fiscal year, to the Minister of Agriculture and Food on the affairs of Agricorp that contains all information that the Minister may require.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

- g) avec l'approbation du lieutenant-gouverneur en conseil, conclure des accords d'entreprise commune et créer des organismes de la Couronne communs avec le gouvernement du Canada ou l'un de ses organismes;
- h) enquêter sur des questions relevant de sa compétence;
- i) conseiller le ministre de l'Agriculture et de l'Alimentation sur des questions relevant de la compétence d'Agricorp.

(2) Aux fins de l'enquête visée à l'alinéa (1) h), Agricorp a les pouvoirs d'une commission qui sont visés à la partie II de la *Loi sur les enquêtes publiques*, partie qui s'applique à l'enquête comme s'il s'agissait d'une enquête menée en vertu de cette loi.

Enquête

L.R.O. 1980,
chap. 411

(3) Le lieutenant-gouverneur en conseil peut, aux conditions qu'il juge opportunes, garantir le paiement d'un emprunt, et des intérêts de cet emprunt, que contracte Agricorp afin de réaliser sa mission.

Emprunts
garantis

10 Sur décret du lieutenant-gouverneur en conseil, Agricorp verse au Trésor les sommes d'argent excédentaires de son fonds d'administration générale, sommes que fixe le trésorier de l'Ontario.

Versement
des sommes
excédentaires

11 Les biens immeubles dont est propriétaire Agricorp qu'elle loue ou qu'elle occupe ne peuvent faire l'objet d'un impôt à des fins municipales ou scolaires s'ils sont effectivement utilisés et occupés aux fins d'Agricorp.

Exemption
d'impôt sur
les biens
immeubles

12 Le conseil charge un ou plusieurs vérificateurs agréés aux termes de la *Loi sur la comptabilité publique* de vérifier chaque année les comptes et les opérations d'Agricorp.

Vérificateurs
L.R.O. 1980,
chap. 405

13 (1) Dans les 120 jours de la fin de l'exercice d'Agricorp, le conseil présente au ministre de l'Agriculture et de l'Alimentation un rapport annuel des affaires d'Agricorp contenant tous les renseignements que le ministre exige.

Rapport
annuel

(2) Le ministre présente le rapport annuel au lieutenant-gouverneur en conseil et le dépose ensuite devant l'Assemblée législative. Si elle ne siège pas, il le dépose à la session suivante.

Idem

Commence-
ment

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

15. The short title of this Act is the *Agricorp Act, 1990*.

14 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en
vigueur

15 Le titre abrégé de la présente loi est *Loi de 1990 sur Agricorp*. Titre abrégé

Bill 235

An Act to revise the Crop Insurance Act (Ontario)

The Hon. D. Ramsay
*Minister of
Agriculture and Food*

Projet de loi 235

Loi portant révision de la Loi sur l'assurance-récolte (Ontario)

L'honorable D. Ramsay
*ministre de
l'Agriculture et de l'Alimentation*



1st Reading June 27th, 1990
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 27 juin 1990
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

The purpose of the Bill is to repeal and replace the *Crop Insurance Act (Ontario)*.

The Bill makes the following changes to the Act:

1. Agricorp replaces the Crop Insurance Commission of Ontario.
2. Unlike the Crop Insurance Commission of Ontario, Agricorp may enter into agreements on its own with the Government of Canada as provided for in the *Crop Insurance Act (Canada)*.
3. Agricultural crops in respect of which Agricorp establishes plans for crop insurance are not designated by regulations made by the Lieutenant Governor in Council except in the case provided for in subsection 5 (2) of the Bill.
4. A decision by Agricorp to establish, amend or revoke a plan of crop insurance and the plan itself are not subject to judicial review.
5. Agricorp is required to comply with any request by the Minister of Agriculture and Food to establish, amend or revoke a plan of crop insurance.
6. Agricorp may appoint inspectors who have powers similar to those of inspectors appointed under the *Farm Income Stabilization Act*.
7. Inspectors and other persons retained by Agricorp are exempted from personal liability for acts done in good faith under the Act or a plan of crop insurance.
8. Disputes arising out of the adjustment of claims under contracts of insurance may be referred to the Farm Products Appeal Tribunal.
9. Agricorp is permitted to make certain investments with money from the Ontario Crop Insurance Fund.

NOTES EXPLICATIVES

Le projet de loi a pour objet d'abroger et de remplacer la *Loi sur l'assurance-récolte (Ontario)*.

Le projet de loi apporte les modifications suivantes à la Loi :

1. Agricorp remplace la Commission ontarienne de l'assurance-récolte.
2. Contrairement à la Commission ontarienne de l'assurance-récolte, Agricorp peut conclure des accords de son propre chef avec le gouvernement du Canada comme le prévoit la *Loi sur l'assurance-récolte (Canada)*.
3. Les produits agricoles à l'égard desquels Agricorp établit des régimes d'assurance-récolte ne sont pas désignés par les règlements que prend le lieutenant-gouverneur en conseil, sauf dans le cas prévu au paragraphe 5 (2) du projet de loi.
4. Une décision d'Agricorp en vue de créer, de modifier ou d'abolir un régime d'assurance-récolte et le régime lui-même ne sont pas assujettis à une révision judiciaire.
5. Agricorp doit acquiescer aux demandes du ministre de l'Agriculture et de l'Alimentation en vue de créer, de modifier ou d'abolir un régime d'assurance-récolte.
6. Agricorp peut nommer des inspecteurs qui ont des pouvoirs semblables à ceux des inspecteurs nommés aux termes de la *Loi sur la stabilisation des revenus agricoles*.
7. Les inspecteurs et autres personnes engagés par Agricorp ne sont tenus personnellement responsables d'aucun acte accompli de bonne foi aux termes de la Loi ou d'un régime d'assurance-récolte.
8. Les différends qui surviennent à la suite de l'examen de la demande d'une indemnité prévue aux termes d'un contrat d'assurance peuvent être renvoyés à la Commission d'appel pour les produits agricoles.
9. Agricorp peut faire certains placements avec les sommes d'argent qui se trouvent dans la Caisse d'assurance-récolte de l'Ontario.

Bill 235**1990****An Act to revise the
Crop Insurance Act (Ontario)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“Fund” means Ontario Crop Insurance Fund; (“Caisse”)

“insurable crop” means an agricultural crop in respect of which a plan has been established; (“récolte assurable”)

“plan” means a plan of crop insurance established by Agricorp. (“régime”)

Duties of
Agricorp**2.—(1)** Agricorp shall,

- (a) establish and administer plans; and
- (b) administer this Act and the regulations made under this Act.

Powers of
Agricorp

(2) Agricorp has all the powers necessary to perform its duties and, without limiting the generality of the foregoing, may,

- (a) conduct surveys and research programs relating to crop insurance and obtain statistics for its purposes;
- (b) require applicants for crop insurance or insured persons to furnish the information, statements and reports that Agricorp requires;
- (c) enter into agreements for crop insurance with applicants for insurance or insured persons;

Projet de loi 235**1990****Loi portant révision de la Loi sur
l'assurance-récolte (Ontario)**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«Caisse» La Caisse d'assurance-récolte de l'Ontario. («Fund»)

«récolte assurable» Produit agricole à l'égard duquel un régime a été créé. («insurable crop»)

«régime» Régime d'assurance-récolte créé par la personne morale connue sous le nom d'Agricorp. («plan»)

2 (1) Agricorp : Fonctions d'Agricorp

a) crée et gère les régimes;

b) applique la présente loi et les règlements pris en application de celle-ci.

(2) Agricorp a les pouvoirs voulus pour s'acquitter de ses fonctions. Elle peut notamment : Pouvoirs d'Agricorp

a) procéder à des études et organiser des programmes de recherche relatifs à l'assurance-récolte et obtenir des statistiques pour ses besoins;

b) exiger que les proposants d'une assurance-récolte ou que les assurés fournissent les renseignements, les déclarations et les rapports qu'Agricorp exige;

c) conclure des accords d'assurance-récolte avec des proposants d'une assurance ou des assurés;

- (d) retain persons for the soliciting and receiving of applications for insurance, the collecting of premiums and the adjusting of claims under plans;
- (e) evaluate losses and pay claims under plans;
- (f) require that persons who wish to assign the right to receive payment of claims under plans sign all documents that Agricorp considers necessary;
- (g) reinsure with any other insurer the risk or any portion of that risk under its contracts of insurance under a plan;
- (h) enter into agreements with the Government of Canada as provided for in the *Crop Insurance Act* (Canada).

R.S.C. 1985,
c. C-48

Agreement
with Canada
a precondition
for plan

R.S.C. 1985,
c. C-48

R.S.O. 1980,
c. 218 does
not apply

3. No plan shall be established unless Agricorp has entered into an agreement with the Government of Canada under the *Crop Insurance Act* (Canada).

4. The *Insurance Act* does not apply to any matter or thing done under this Act.

CROP INSURANCE PLANS

Plans for
agricultural
crops

5.—(1) Subject to subsection (2), Agricorp may establish, amend and revoke voluntary plans for the insurance within Ontario of agricultural crops and fix the terms and conditions of insurance under a plan.

Designation
by
Lieutenant
Governor in
Council
required

(2) If the potential liability of Agricorp under a plan in respect of any one agricultural crop exceeds 2 per cent of the total potential liability of Agricorp under all plans, no plan for the insurance of that crop shall be established until the Lieutenant Governor in Council designates that crop as an insurable crop.

Powers of
Agricorp

(3) Without restricting the generality of subsection (1), Agricorp may, for the purposes of a plan,

- (a) require applicants for crop insurance and insured persons to furnish the information, statements and reports that are necessary to administer the plan;

- d) engager des personnes en vue de la sollicitation et de la réception de propositions d'assurance, de la perception des primes et de l'examen des demandes d'indemnités prévues aux termes de régimes;
- e) évaluer les pertes et assurer le paiement des indemnités prévues aux termes de régimes;
- f) exiger des personnes désireuses de céder le droit de recevoir le paiement des indemnités prévues aux termes de régimes qu'elles signent tous les documents qu'Agricorp estime nécessaires;
- g) réassurer auprès d'un autre assureur l'ensemble ou une partie du risque couvert par ses contrats d'assurance conclus aux termes d'un régime;
- h) conclure des accords avec le gouvernement du Canada comme le prévoit la *Loi sur l'assurance-récolte* (Canada).

L.R.C. 1985.
chap. C-48

3 Nul régime ne doit être créé à moins qu'Agricorp n'ait conclu un accord avec le gouvernement du Canada aux termes de la *Loi sur l'assurance-récolte* (Canada).

Accord avec
le Canada,
une condition
préalable

4 La *Loi sur les assurances* ne s'applique pas aux questions traitées ou aux mesures prises aux termes de la présente loi.

Non-
application du
chap. 218 des
L.R.O. de
1980

RÉGIMES D'ASSURANCE-RÉCOLTE

5 (1) Sous réserve du paragraphe (2), Agricorp peut créer, modifier et abolir des régimes volontaires d'assurance en Ontario de produits agricoles et fixer les conditions d'assurance à prévoir aux termes d'un régime.

Régimes pour
les produits
agricoles

(2) Si la responsabilité éventuelle d'Agricorp dans le cadre d'un régime visant un produit agricole quelconque dépasse 2 pour cent du total des responsabilités éventuelles d'Agricorp dans le cadre de tous les régimes, aucun régime visant l'assurance de ce produit ne doit être créé tant que le lieutenant-gouverneur en conseil ne désigne pas ce produit comme récolte assurable.

Nécessité
d'une désigna-
tion par le
lieutenant-
gouverneur
en conseil

(3) Sans préjudice de la portée générale du paragraphe (1), Agricorp peut, dans le cadre d'un régime :

Pouvoirs
d'Agricorp

- a) exiger que les proposants d'une assurance-récolte ainsi que les assurés fournissent les renseignements, les déclarations et les rapports nécessaires à la gestion du régime;

- (b) determine classes of insurable persons for the plan and the qualifications and requirements for participation in the plan or any part of the plan;
- (c) require that the plan or any part of the plan applies to all of Ontario or to any area within Ontario;
- (d) designate perils to which the plan applies;
- (e) determine coverage and establish values with respect to,
 - (i) insurable crops,
 - (ii) fruit trees and perennial plants, and
 - (iii) seeding and planting;
- (f) provide for coverage against loss arising from the destruction in whole or in part of fruit trees or perennial plants other than trees by a peril designated by Agricorp;
- (g) provide for coverage against loss arising when the planting of land intended to be used to grow an insurable crop is prevented by a peril designated by Agricorp;
- (h) fix premium rates and provide for the payment and collection of premiums in respect of the plan;
- (i) prescribe forms and provide for their use and require any information given in a form to be verified by statutory declaration; and
- (j) fix a final date in each year for the receipt of applications for crop insurance under the plan.

Plan against
loss when
seeding

6.—(1) Agricorp may establish, amend and revoke voluntary plans for the insurance within Ontario against loss arising when the planting of an agricultural crop on land is prevented by excess ground moisture, weather or other agricultural hazards.

- b) déterminer quelles catégories de personnes sont assurables dans le cadre du régime ainsi que les qualités et exigences requises pour adhérer à la totalité ou à une partie du régime;
- c) exiger que la totalité ou une partie du régime s'applique à l'ensemble de l'Ontario ou à une région donnée de la province;
- d) désigner les risques couverts par le régime;
- e) déterminer le montant et l'étendue de la garantie, et les valeurs à attribuer :
 - (i) aux récoltes assurables,
 - (ii) aux arbres fruitiers et plantes vivaces,
 - (iii) à l'ensemencement et à la plantation;
- f) prévoir une garantie contre toute perte qui résulte de la destruction totale ou partielle d'arbres fruitiers ou de plantes vivaces autres que des arbres et qui est due à un risque désigné par Agricorp;
- g) prévoir une garantie contre toute perte qui résulte du fait que la plantation d'une terre destinée à la culture d'une récolte assurable n'a pu avoir lieu à cause d'un risque désigné par Agricorp;
- h) fixer les taux des primes et prévoir les modalités du versement et de la perception de ces primes à l'égard du régime;
- i) prescrire les formules et prévoir les modalités de leur emploi, et exiger que les renseignements fournis soient attestés par déclaration solennelle;
- j) fixer chaque année une date limite pour la réception des propositions d'assurance-récolte aux termes du régime.

6 (1) Agricorp peut créer, modifier et abolir des régimes volontaires d'assurance en Ontario contre une perte qui résulte du fait que la plantation d'un produit agricole dans une terre n'a pu avoir lieu à cause de l'humidité excessive du sol, des conditions météorologiques ou d'autres risques inhérents à l'agriculture.

Régimes
contre la
perte
au moment de
l'ensemencement

Powers of
Agricorp

(2) Subsection 5 (3) applies with necessary modifications with respect to a plan under this section.

Decision and
plan not
subject to
judicial
review

7. A decision by Agricorp to establish, amend or revoke a plan under subsection 5 (1) or 6 (1) and the plan itself shall be deemed to be of an administrative nature, and not of a legislative nature.

Minister's
request

8.—(1) The Minister of Agriculture and Food may request in writing that Agricorp establish, amend or revoke a plan or proposed plan.

Compliance
by Agricorp

(2) Agricorp shall comply with a request made under subsection (1).

Appointment
of inspectors

9.—(1) Agricorp may appoint a chief inspector and other inspectors as it considers necessary.

Proof of
appointment

(2) The production by an inspector of a certificate of appointment purporting to be signed by Agricorp is admissible in evidence as *prima facie* proof of appointment without further proof of the signature or authority of Agricorp.

Powers of
inspector

(3) Subject to this section, an inspector may, in respect of a person insured under a plan or an applicant for crop insurance,

(a) enter and inspect any lands and premises, other than a dwelling, that are owned or occupied by the insured person or applicant, and inspect any goods located on those lands and premises; and

(b) demand the production by the insured person or applicant of books, records or documents or extracts from those books, records or documents relating to the insurable crop to which the plan applies.

Time for
exercising
powers

(4) An inspector shall exercise powers under subsection (3) only during normal business hours, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

Written
demand

(5) If an inspector makes a demand under clause (3) (b), the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

(2) Le paragraphe 5 (3) s'applique avec les adaptations nécessaires au régime visé au présent article.

Pouvoirs
d'Agricorp

7 Toute décision d'Agricorp en vue de créer, de modifier ou d'abolir un régime en vertu du paragraphe 5 (1) ou 6 (1) ainsi que le régime lui-même sont réputés de nature administrative et non de nature législative.

Non-
assujettisse-
ment des
décisions et
des régimes
à une révision
judiciaire

8 (1) Le ministre de l'Agriculture et de l'Alimentation peut demander par écrit qu'Agricorp crée, modifie ou abolisse un régime ou un projet de régime.

Demande du
ministre

(2) Agricorp doit acquiescer à la demande présentée en vertu du paragraphe (1).

Acquiesce-
ment par
Agricorp

9 (1) Agricorp peut nommer un inspecteur en chef et les autres inspecteurs qu'elle estime nécessaires.

Nomination
d'inspecteurs

(2) La production par un inspecteur d'une attestation de sa nomination, qui se présente comme étant signée par Agricorp, est admissible comme preuve *prima facie* de sa nomination, sans qu'il soit nécessaire de prouver l'authenticité de la signature qui y est apposée ou l'autorité d'Agricorp.

Preuve de la
nomination

(3) Sous réserve du présent article, un inspecteur peut, à l'égard d'une personne assurée aux termes d'un régime ou d'un proposant d'une assurance-récolte :

Pouvoirs de
l'inspecteur

a) pénétrer dans tout bien-fonds et lieu, autre qu'une habitation, qu'occupe ou dont est propriétaire la personne ou le proposant, inspecter le bien-fonds et le lieu et examiner les objets qui s'y trouvent;

b) demander que l'assuré ou le proposant produise les livres, dossiers, documents ou extraits de ceux-ci qui se rapportent à la récolte assurable à laquelle le régime s'applique.

(4) Un inspecteur n'exerce ses pouvoirs en vertu du paragraphe (3) que pendant les heures normales de bureau. Toutefois, rien dans le présent article ne porte atteinte à la délivrance et à l'exécution d'un mandat délivré en vertu de l'article 142 de la *Loi sur les infractions provinciales*.

Exercice des
pouvoirs

L.R.O. 1980,
chap. 400

(5) Si un inspecteur présente une demande aux termes de l'alinéa (3) b), celle-ci est faite par écrit et elle contient des données sur la nature des livres, dossiers, documents ou extraits exigés.

Demande
écrite

- Obligation to produce (6) If an inspector makes a demand under clause (3) (b), the person having custody of the books, records, documents or extracts shall produce them to the inspector.
- Photocopying (7) The inspector may detain books, records, documents or extracts that are produced under subsection (6) for the purpose of photocopying them, but that photocopying must be carried out with reasonable dispatch, and the inspector shall forthwith after the photocopying return them to the person who produced them.
- Admissibility of photocopies (8) If a book, record, document or extract has been photocopied under subsection (7), a photocopy purporting to be certified by an inspector to be a copy made pursuant to that subsection is admissible in evidence to the same extent as, and has the same evidentiary value as, the book, record, document or extract of which the photocopy is a copy.
- Obstruction of inspector (9) No person shall obstruct an inspector who is carrying out his or her duties or shall furnish false information or refuse to furnish information.
- Offence (10) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.
- Protection from liability **10.** A person retained by Agricorp under clause 2 (2) (d) or an inspector under section 9 is not personally liable for any act done in good faith under this Act or purporting to be done under this Act.
- Referral of disputes to Tribunal **11.—**(1) If Agricorp and an insured person fail to resolve a dispute arising out of the adjustment of a claim under a contract of insurance, Agricorp or the insured person may, by written notice sent to the other and filed with the Farm Products Appeal Tribunal, require the matter in dispute to be determined by the Tribunal.
- Tribunal's decision binding (2) The decision of the Tribunal is binding on the parties.

FUNDING

- Ontario Crop Insurance Fund R.S.O. 1980, c. 104 **12.—**(1) The Ontario Crop Insurance Fund established under the *Crop Insurance Act (Ontario)* is continued under the name "Ontario Crop Insurance Fund" in English and under the name "Caisse d'assurance-récolte de l'Ontario" in French.

(6) Si un inspecteur présente une demande aux termes de l'alinéa (3) b), la personne qui a la garde des livres, dossiers, documents ou extraits les produit à l'inspecteur. Production obligatoire

(7) L'inspecteur peut détenir les livres, dossiers, documents ou extraits qui sont produits aux termes du paragraphe (6) en vue de les photocopier. Toutefois, la photocopie de ces pièces doit se faire avec une diligence raisonnable, et l'inspecteur les rend ensuite sans délai à la personne qui les a produites. Photocopie

(8) Si un livre, dossier, document ou extrait a été photocopié aux termes du paragraphe (7), la photocopie qui se présente comme étant certifiée par un inspecteur comme copie faite conformément à ce paragraphe est admissible en preuve dans la même mesure et a la même valeur probante que le livre, dossier, document ou extrait dont elle est une photocopie. Admissibilité des photocopies

(9) Nul ne doit entraver un inspecteur dans l'exercice de ses fonctions, lui fournir de faux renseignements ni refuser de lui fournir des renseignements. Entrave

(10) Quiconque enfreint le présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$.

10 La personne engagée par Agricorp aux termes de l'alinéa 2 (2) d) ou l'inspecteur visé à l'article 9 n'est pas tenu personnellement responsable d'un acte qui a été accompli de bonne foi aux termes de la présente loi ou qui paraît avoir été accompli aux termes de la présente loi. Immunité

11 (1) Si Agricorp et un assuré n'arrivent pas à régler un différend découlant de l'examen de la demande d'une indemnité prévue aux termes d'un contrat d'assurance, Agricorp ou l'assuré peut, au moyen d'un avis écrit envoyé à l'autre partie et déposé auprès de la Commission d'appel pour les produits agricoles, exiger que la Commission statue sur la question en litige. Renvoi des différends à la Commission

(2) La décision de la Commission lie les parties. Décision de la Commission

FINANCEMENT

12 (1) La caisse nommée «Ontario Crop Insurance Fund», créée aux termes de la loi intitulée *Crop Insurance Act* (*Ontario*), est maintenue sous le nom de «Caisse d'assurance-récolte de l'Ontario» en français et sous le nom de «Ontario Crop Insurance Fund» en anglais. Caisse d'assurance-récolte de l'Ontario
L.R.O. 1980, chap. 104

- Idem R.S.C. 1985, c. B-1 (2) Agricorp shall maintain the Fund in a bank named in Schedule I to the *Bank Act* (Canada).
- Deposits into Fund (3) Agricorp shall deposit into the Fund all money that it receives under this Act.
- Investments R.S.O. 1980, c. 161 (4) Agricorp may invest all or any part of the Fund in any investment that the Treasurer of Ontario may make under section 3 of the *Financial Administration Act*, or that the Treasurer of Ontario has otherwise approved.
- Payments out of Fund (5) Agricorp shall pay out of the Fund all money required for,
- (a) the payment of claims under plans;
 - (b) the payment of premiums for reinsurance; and
 - (c) the repayment of advances made under section 14.
- Surplus (6) Agricorp may pay into the Consolidated Revenue Fund the surplus money in the Fund that is not necessary for the current requirements of Agricorp, and section 7 of the *Financial Administration Act* applies to that payment.
- Payment of premiums **13.**—(1) All money required by this Act to be paid in respect of premiums under plans and all money due under agreements of reinsurance shall be paid to Agricorp.
- Subsidy (2) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to pay to Agricorp out of the Consolidated Revenue Fund a sum equivalent to that percentage of the premiums payable under a plan or plans that the Lieutenant Governor in Council determines.
- Advances **14.** If at any time the amount standing to the credit of the Fund is insufficient for the purpose of making payments of claims under plans, the Lieutenant Governor in Council may authorize the Treasurer of Ontario to advance to Agricorp out of the Consolidated Revenue Fund the sums that are necessary to meet the deficit on those terms and conditions that the Lieutenant Governor in Council directs.
- Contributions from Canada **15.** Agricorp may accept any contributions payable by the Government of Canada under an agreement made under clause 2 (2) (h) with respect to the costs of administering this Act or plans.

(2) Agricorp conserve la Caisse dans une banque désignée à l'Annexe I de la *Loi sur les banques* (Canada). Idem
L.R.C. 1985, chap. B-1

(3) Agricorp dépose à la Caisse toutes les sommes d'argent qu'elle reçoit aux termes de la présente loi. Dépôts à la Caisse

(4) Agricorp peut investir la totalité ou une partie du produit de la Caisse dans tout placement que le trésorier de l'Ontario peut faire en vertu de l'article 3 de la *Loi sur l'administration financière* ou qu'il a autrement approuvé. Placements
L.R.O. 1980, chap. 161

(5) Agricorp prélève sur la Caisse les sommes d'argent requises aux fins suivantes : Versements prélevés sur la Caisse

a) satisfaire aux demandes de paiements d'indemnités présentées aux termes des régimes;

b) verser des primes de réassurance;

c) rembourser des avances faites aux termes de l'article 14.

(6) Agricorp peut verser au Trésor les sommes d'argent excédentaires au crédit de la Caisse qui ne sont pas nécessaires à ses besoins courants. L'article 7 de la *Loi sur l'administration financière* s'applique dans ce cas. Excédent

13 (1) Les sommes d'argent devant être versées en vertu de la présente loi à titre de primes aux termes des régimes, ainsi que les sommes d'argent dues aux termes de conventions de réassurance sont versées à Agricorp. Versement des primes

(2) Le lieutenant-gouverneur en conseil peut autoriser le trésorier de l'Ontario à prélever sur le Trésor et à verser à Agricorp une somme égale au pourcentage des primes payables aux termes d'un ou de plusieurs régimes qu'il fixe. Subsidies

14 Au cas où le solde créditeur de la Caisse est insuffisant pour effectuer le paiement relatif aux demandes d'indemnités présentées aux termes des régimes, le lieutenant-gouverneur en conseil peut, sous réserve des conditions qu'il impose, autoriser le trésorier de l'Ontario à avancer à Agricorp les sommes prélevées sur le Trésor qui sont nécessaires pour combler le déficit. Avances

15 Agricorp peut accepter les contributions que le gouvernement du Canada est tenu de verser aux termes d'un accord conclu en vertu de l'alinéa 2 (2) h) et les affecter aux frais d'application de la présente loi ou de gestion des régimes. Contributions du Canada

Regulations

16. The Lieutenant Governor in Council may make regulations,

- (a) designating any agricultural crop as an insurable crop;
- (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Transition

R.S.O. 1980,
c. 104
1983, c. 54

17.—(1) Plans established under subsections 5 (1) and 6 (1) of the *Crop Insurance Act (Ontario)*, as amended by the *Crop Insurance Amendment Act (Ontario)*, 1983, shall be deemed to be continued under subsections 5 (1) and 6 (1) of this Act, respectively.

Idem

(2) Agreements that the Minister of Agriculture and Food has entered into with the Government of Canada under subsection 14 (1) of the *Crop Insurance Act (Ontario)* shall be deemed to be continued under clause 2 (2) (h) of this Act.

Idem

(3) A reference to The Crop Insurance Commission of Ontario in any plan or document related to the Fund shall be deemed to be a reference to Agricorp.

Repeals

18. The following Acts are repealed:

R.S.O. 1980,
c. 104

1. The *Crop Insurance Act (Ontario)*.

1983, c. 54

2. The *Crop Insurance Amendment Act (Ontario)*, 1983.

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Crop Insurance Act (Ontario)*, 1990.

16 Le lieutenant-gouverneur en conseil peut, par règlement : Règlements

- a) désigner comme récolte assurable tout produit agricole;
- b) traiter des questions jugées nécessaires ou utiles pour réaliser efficacement l'objet de la présente loi.

17 (1) Les régimes créés aux termes des paragraphes 5 (1) et 6 (1) de la *Loi sur l'assurance-récolte (Ontario)*, telle qu'elle est modifiée par la *Loi de 1983 modifiant la Loi sur l'assurance-récolte (Ontario)*, sont réputés maintenus aux termes des paragraphes 5 (1) et 6 (1) respectivement de la présente loi. Disposition transitoire
L.R.O. 1980, chap. 104
1983, chap. 54

(2) Les accords que le ministre de l'Agriculture et de l'Alimentation a conclus avec le gouvernement du Canada aux termes du paragraphe 14 (1) de la *Loi sur l'assurance-récolte (Ontario)*, sont réputés maintenus aux termes de l'alinéa 2 (2) h) de la présente loi. Idem

(3) Une mention de la Commission ontarienne de l'assurance-récolte dans un régime ou document relatif à la Caisse est réputée une mention d'Agricorp. Idem

18 Les lois suivantes sont abrogées : Abrogations

- 1. La *Loi sur l'assurance-récolte (Ontario)*. L.R.O. 1980, chap. 104
- 2. La *Loi de 1983 modifiant la Loi sur l'assurance-récolte (Ontario)*. 1983, chap. 54

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation. Entrée en vigueur

20 Le titre abrégé de la présente loi est *Loi de 1990 sur l'assurance-récolte (Ontario)*. Titre abrégé

Bill 236

An Act to revise the Farm Income Stabilization Act

The Hon. D. Ramsay
*Minister of
Agriculture and Food*

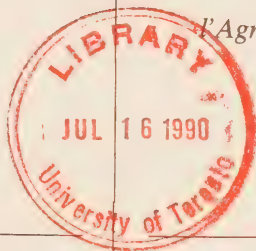
1st Reading June 27th, 1990
2nd Reading
3rd Reading
Royal Assent

Projet de loi 236

Loi portant révision de la Loi sur la stabilisation des revenus agricoles

L'honorable D. Ramsay
*ministre de
l'Agriculture et de l'Alimentation*

1^{re} lecture 27 juin 1990
2^e lecture
3^e lecture
sanction royale



EXPLANATORY NOTES

The purpose of the Bill is to repeal and replace the *Farm Income Stabilization Act*.

The Bill makes the following changes to the Act:

1. Agricorp replaces the Farm Income Stabilization Commission of Ontario.
2. A decision by Agricorp to establish, amend or revoke a plan of farm income stabilization and the plan itself are not subject to judicial review.
3. Agricorp is required to comply with any request by the Minister of Agriculture and Food to establish, amend or revoke a plan of farm income stabilization.
4. The powers of an inspector are extended to cover persons enrolled in or applicants for enrolment in a stabilization scheme under an agreement between Agricorp and the Government of Canada under the *Agricultural Stabilization Act* (Canada).
5. Inspectors are exempted from personal liability for acts done in good faith under the Act or a plan of farm income stabilization.
6. Agricorp is permitted to make certain investments with money from the Ontario Farm Income Stabilization Fund.

NOTES EXPLICATIVES

Le projet de loi a pour objet d'abroger et de remplacer la *Loi sur la stabilisation des revenus agricoles*.

Le projet de loi apporte les modifications suivantes à la Loi :

1. Agricorp remplace la Commission de stabilisation des revenus agricoles de l'Ontario.
2. Une décision d'Agricorp en vue de créer, de modifier ou d'abolir un régime de stabilisation des revenus agricoles et le régime lui-même ne sont pas assujettis à une révision judiciaire.
3. Agricorp doit acquiescer aux demandes du ministre de l'Agriculture et de l'Alimentation en vue de créer, de modifier ou d'abolir un régime de stabilisation des revenus agricoles.
4. Les pouvoirs d'un inspecteur s'étendent aux personnes inscrites ou aux auteurs d'une demande d'inscription à un programme de stabilisation visé par un accord entre Agricorp et le gouvernement du Canada aux termes de la *Loi sur la stabilisation des prix agricoles* (Canada).
5. Les inspecteurs ne sont pas tenus personnellement responsables d'actes accomplis de bonne foi aux termes de la Loi ou d'un régime de stabilisation des revenus agricoles.
6. Agricorp peut faire certains placements avec les sommes d'argent qui se trouvent dans la Caisse de stabilisation des revenus agricoles de l'Ontario.

Bill 236**1990****An Act to revise the
Farm Income Stabilization Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“farm product” means animals, meats, eggs, poultry, wool, milk, cream, grains, seeds, fruit, vegetables, maple products, honey and tobacco produced in Ontario and designated in the regulations, or any class or part of these products; (“produit agricole”)

“farm product receipts” means the amount ascertained and prescribed by Agricorp for the purposes of a plan as representing, for each unit of farm product, the sum of,

- (a) the market price,
- (b) the amount prescribed under clause 4 (2) (c) as a stabilization factor, and
- (c) any other money received or receivable by producers respecting the farm product to which the plan applies; (“recettes d’un produit agricole”)

“Fund” means the Ontario Farm Income Stabilization Fund; (“Caisse”)

“plan” means a plan of farm income stabilization established by Agricorp. (“régime”)

Duties of
Agricorp**2.—(1)** Agricorp shall,

- (a) establish and administer plans; and
- (b) administer this Act and the regulations made under this Act.

Projet de loi 236**1990****Loi portant révision de la
Loi sur la stabilisation des revenus agricoles**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Les définitions qui suivent s'appliquent à la présente loi. Définitions

«Caisse» La Caisse de stabilisation des revenus agricoles de l'Ontario. («Fund»)

«produit agricole» Les animaux, la viande, les oeufs, la volaille, la laine, le lait, la crème, les grains, les graines, les fruits, les légumes, les produits de l'érable, le miel et le tabac produits en Ontario et désignés dans les règlements, ou toute catégorie ou partie de ceux-ci. («farm product»)

«recettes d'un produit agricole» Le montant qui est fixé et prescrit par la personne morale connue sous le nom d'Agricorp aux fins d'un régime et qui représente pour chaque unité d'un produit agricole la somme de ce qui suit :

- a) le prix du marché;
- b) le montant prescrit en vertu de l'alinéa 4 (2) c) comme facteur de stabilisation;
- c) toute autre somme d'argent reçue ou recevable par les producteurs pour le produit agricole auquel le régime s'applique. («farm product receipts»)

«régime» Régime de stabilisation des revenus agricoles créé par Agricorp. («plan»)

2 (1) Agricorp :

Fonctions
d'Agricorp

- a) crée et gère les régimes;
- b) applique la présente loi et les règlements pris en application de celle-ci.

Powers of
Agricorp

(2) Agricorp has all the powers necessary to perform its duties and, without limiting the generality of the foregoing, may,

- (a) conduct surveys and research programs relating to farm income stabilization and obtain statistics for its purposes; and
- (b) with the approval of the Lieutenant Governor in Council, enter into agreements with the Government of Canada as provided for in the *Agricultural Stabilization Act* (Canada).

R.S.C. 1985,
c. A-8

Effective
date of
agreement
with Canada

3.—(1) An agreement referred to in clause 2 (2) (b) may provide that the whole or part of the agreement takes effect on a day earlier than the day on which this Act comes into force.

Termination
of plan

(2) If a plan exists in respect of a farm product under this Act and Agricorp enters into an agreement under clause 2 (2) (b) with respect to that product, Agricorp shall phase out the plan.

FARM INCOME STABILIZATION PLANS

Plans for
farm
products

4.—(1) Agricorp may establish, amend and revoke voluntary plans for farm products and fix the terms and conditions of stabilization under a plan.

Powers of
Agricorp

(2) Without limiting the generality of subsection (1), Agricorp may, for the purposes of a plan,

- (a) enter into agreements for income stabilization with applicants for enrolment in the plan or persons enrolled in the plan;
- (b) ascertain and prescribe the farm product receipts effective for a farm product to which the plan applies;
- (c) prescribe the stabilization factor to be included in the farm product receipts effective for a farm product which shall be,
 - (i) in the case of a farm product named as a named commodity in subsection 2 (1) of the *Agricultural Stabilization Act* (Canada), the money paid or payable per unit of farm product under that Act,

R.S.C. 1985,
c. A-8

(2) Agricorp possède tous les pouvoirs nécessaires à l'exécution de ses fonctions et peut notamment :

Pouvoirs
d'Agricorp

- a) procéder à des études et organiser des programmes de recherche relatifs à la stabilisation des revenus agricoles et obtenir des statistiques pour ses besoins;
- b) avec l'approbation du lieutenant-gouverneur en conseil, conclure des accords avec le gouvernement du Canada comme le prévoit la *Loi sur la stabilisation des prix agricoles* (Canada).

L.R.C. 1985,
chap. A-8

3 (1) Un accord mentionné à l'alinéa 2 (2) b) peut prévoir que la totalité ou une partie de l'accord prendra effet un jour plus tôt que le jour d'entrée en vigueur de la présente loi.

Prise d'effet
d'un accord
avec le gou-
vernement du
Canada

(2) S'il existe un régime à l'égard d'un produit agricole aux termes de la présente loi et si Agricorp conclut un accord en vertu de l'alinéa 2 (2) b) à l'égard de ce produit, Agricorp doit éliminer progressivement ce régime.

Élimination
d'un régime

RÉGIMES DE STABILISATION DES REVENUS AGRICOLES

4 (1) Agricorp peut créer, modifier et abolir des régimes volontaires pour les produits agricoles et fixer les conditions de stabilisation aux termes d'un régime.

Régimes pour
les produits
agricoles

(2) Sans que soit limitée la portée générale du paragraphe (1), Agricorp peut, pour l'application d'un régime :

Pouvoirs
d'Agricorp

- a) conclure des accords de stabilisation des revenus avec les auteurs d'une demande d'inscription au régime ou les personnes qui sont inscrites au régime;
- b) établir et fixer les recettes d'un produit agricole imputables à un produit agricole auquel le régime s'applique;
- c) prescrire le facteur de stabilisation qui doit être inclus dans les recettes d'un produit agricole imputables à un produit agricole et qui doit correspondre :
 - (i) dans le cas d'un produit agricole désigné comme produit au paragraphe 2 (1) de la *Loi sur la stabilisation des prix agricoles* (Canada), aux sommes payées ou payables

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- (ii) in the case of a farm product designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), if the percentage prescribed under paragraph 10 (1) (b) of that Act is less than ninety, the money that would have been paid or payable per unit of farm product under that Act if the percentage prescribed had been ninety,
 - (iii) in the case of a farm product designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), if the percentage prescribed under paragraph 10 (1) (b) of that Act is ninety or greater, the money paid or payable per unit of farm product under that Act, or
 - (iv) in the case of a farm product other than those referred to in subclauses (i), (ii) and (iii), an amount that, in the opinion of Agricorp, represents the money that would have been payable per unit of farm product if the farm product had been designated as an agricultural commodity under the *Agricultural Stabilization Act* (Canada), and the percentage prescribed under paragraph 10 (1) (b) of that Act were ninety;
- (d) ascertain and prescribe a base price respecting the farm product to which the plan applies representing the average price of the product at representative markets as determined by Agricorp for the five years immediately preceding the year prescribed in the plan;
- (e) establish stabilization prices respecting a farm product to which the plan applies, by adjusting 95 per cent of the base price of the product by an index calculated in the manner that Agricorp prescribes to reflect the estimated cash-cost of production of the farm product in the year for which the stabilization prices are established as compared with the average cash-cost of production for the five years immediately preceding that year;

pour une unité du produit agricole aux termes de cette loi,

- (ii) dans le cas d'un produit agricole désigné comme produit agricole aux termes de la *Loi sur la stabilisation des prix agricoles* (Canada), si le pourcentage prescrit aux termes de la disposition 10 (1) *b*) de cette loi est inférieur à quatre-vingt-dix, aux sommes qui auraient été payées ou payables aux termes de cette loi pour une unité du produit agricole si le pourcentage prescrit avait été quatre-vingt-dix,
 - (iii) dans le cas d'un produit agricole désigné comme produit agricole aux termes de la *Loi sur la stabilisation des prix agricoles* (Canada), si le pourcentage prescrit aux termes de la disposition 10 (1) *b*) de cette loi est quatre-vingt-dix ou plus, aux sommes payées ou payables aux termes de cette loi pour une unité du produit agricole,
 - (iv) dans le cas d'un produit agricole différent de ceux mentionnés aux sous-alinéas (i), (ii) et (iii), à un montant qui, de l'avis d'Agricorp, représente les sommes d'argent qui auraient été payables pour une unité du produit agricole si celui-ci avait été désigné comme produit agricole aux termes de la *Loi sur la stabilisation des prix agricoles* (Canada) et si le pourcentage prescrit aux termes de la disposition 10 (1) *b*) de cette loi était quatre-vingt-dix;
- d) établir et prescrire un prix de base pour le produit agricole auquel le régime s'applique et qui représente le prix moyen de celui-ci sur des marchés représentatifs qu'Agricorp détermine pour les cinq années qui précèdent l'année prescrite dans le régime;
- e) fixer des prix de stabilisation pour un produit agricole auquel le régime s'applique en indexant 95 pour cent du prix de base du produit de la façon qu'Agricorp prescrit en vue de rendre compte des déboursements monétaires estimatifs de production du produit agricole au cours de l'année pour laquelle les prix de stabilisation sont fixés par rapport aux déboursements monétaires moyens de production pour les cinq années qui précèdent cette année-là;

- (f) fix the fees to be paid by a person enrolled in the plan, prescribe the times and method of payment and provide for the deduction of fees from payments under the plan;
- (g) prescribe the maximum level of production or marketing for which a person enrolled in the plan is eligible to receive payments under the plan;
- (h) subject to subsection 5 (1), prescribe the qualifications and requirements for enrolment or continued enrolment in the plan;
- (i) prescribe terms and conditions to be complied with by applicants for enrolment or persons enrolled in the plan;
- (j) prescribe the term of enrolment in the plan;
- (k) require applicants for enrolment in a plan or any person enrolled in the plan to furnish the information, statements or reports that Agricorp requires;
- (l) prescribe the times at which the applications for enrolment in the plan may be made;
- (m) prescribe the terms and conditions under which a person enrolled in the plan may withdraw from participation in the plan;
- (n) provide for the adjustment of fees payable by a person enrolled in the plan or the adjustment of payments to the plan, if the amount of farm product for which fees were paid varies from the amount otherwise eligible for payment or if the person receives money respecting the farm product that are not taken into account in calculating the farm product receipts prescribed for the farm product;
- (o) prescribe the times at which payments shall be made under subsection 5 (3);
- (p) prescribe forms and provide for their use and require information given in a form to be verified by statutory declaration;
- (q) provide for the assignment of payments under the plan and the form and validity of that assignment.

- f) fixer les cotisations devant être versées par une personne inscrite au régime, prescrire les dates et le mode de versement et prévoir la déduction des cotisations des paiements effectués aux termes du régime;
- g) prescrire le niveau maximal de production ou de mise en marché pour lequel une personne inscrite au régime est admissible à recevoir des paiements aux termes du régime;
- h) sous réserve du paragraphe 5 (1), prescrire les critères d'admissibilité et les exigences pour pouvoir s'inscrire au régime ou pour continuer à s'y inscrire;
- i) prescrire les conditions auxquelles doivent se conformer les auteurs d'une demande d'inscription au régime ou les personnes qui y sont inscrites;
- j) prescrire la durée de l'inscription au régime;
- k) exiger que les auteurs d'une demande d'inscription au régime ou les personnes qui y sont inscrites fournissent les renseignements, les déclarations ou les rapports qu'Agricorp exige;
- l) prescrire les dates auxquelles les demandes d'inscription au régime peuvent être faites;
- m) prescrire les conditions aux termes desquelles une personne inscrite au régime peut en sortir;
- n) prévoir l'ajustement des cotisations payables par une personne inscrite au régime ou l'ajustement des paiements faits au régime, si la quantité des produits agricoles pour lesquels des cotisations ont été payées diffère de celle qui donnerait lieu autrement au paiement ou si la personne reçoit, pour le produit agricole, des sommes d'argent qui n'entrent pas dans le calcul des recettes d'un produit agricole prescrites pour le produit agricole;
- o) prescrire les dates auxquelles des paiements doivent être faits aux termes du paragraphe 5 (3);
- p) prescrire des formules, prévoir les modalités de leur emploi et exiger que tout renseignement qui y figure soit appuyé d'une déclaration solennelle;
- q) prévoir la cession des paiements effectués aux termes du régime, sa forme et sa validité.

Eligibility for enrolment

5.—(1) No person who is not ordinarily a resident of Ontario is eligible to enrol in a plan.

Level at which fees to be fixed

(2) Agricorp shall fix fees to be paid by a person enrolled in a plan at a level that, in its opinion, over the term of enrolment prescribed in the plan will return one-third of the amount necessary to maintain the Fund in respect of the farm product for which fees are fixed.

Agricorp pays shortfall

(3) If, under a plan, the stabilization price exceeds the farm product receipts, Agricorp shall, at the prescribed times, pay to those persons enrolled in the plan the difference between the stabilization price and the farm product receipts respecting any farm product under the plan.

Deemed higher stabilization price

(4) If, under a plan, in any year, the stabilization price exceeds a cost of production figure that is ascertained and prescribed by Agricorp, the stabilization price shall be deemed to be equal to that cost of production figure.

Decision and plan not subject to judicial review

6. A decision by Agricorp to establish, amend or revoke a plan under subsection 4 (1) and the plan itself shall be deemed to be of an administrative nature, and not of a legislative nature.

Minister's request

7.—(1) The Minister of Agriculture and Food may request in writing that Agricorp establish, amend or revoke a plan or proposed plan.

Compliance by Agricorp

(2) Agricorp shall comply with a request made under subsection (1).

Negotiation

8.—(1) Agricorp shall, respecting a proposed plan or proposed amendments to a plan, negotiate with,

R.S.O. 1980, cc. 158, 266

- (a) any local board under the *Farm Products Marketing Act* or marketing board under the *Milk Act* affected by the plan;
- (b) the Christian Farmers Federation;
- (c) the National Farmers Union;
- (d) the Ontario Federation of Agriculture; and
- (e) any other organizations or groups of producers that Agricorp considers proper.

5 (1) Nul n'est admissible à l'inscription à un régime à moins de résider ordinairement en Ontario.

Admissibilité
à l'inscription

(2) Agricorp fixe les cotisations qu'une personne inscrite à un régime verse à un taux qui, à son avis, rapportera, pendant la période d'inscription prescrite dans le régime, un tiers du montant nécessaire pour alimenter la Caisse en ce qui concerne le produit agricole pour lequel des cotisations sont fixées.

Taux de
détermination
des droits

(3) Si, aux termes d'un régime, le prix de stabilisation est supérieur aux recettes d'un produit agricole, Agricorp paie, aux dates prescrites, aux personnes inscrites au régime la différence entre le prix de stabilisation et les recettes d'un produit agricole qui se rapportent à un produit agricole visé par le régime.

Paiement de
la différence
en moins par
Agricorp

(4) Si, aux termes d'un régime et au cours d'une année quelconque, le prix de stabilisation est supérieur à un chiffre représentant les coûts de production fixé et prescrit par Agricorp, le prix de stabilisation est réputé égal à ce chiffre.

Prix de stabili-
sation réputé
supérieur

6 Toute décision d'Agricorp en vue de créer, de modifier ou d'abolir un régime en vertu du paragraphe 4 (1) ainsi que le régime lui-même sont réputés de nature administrative et non de nature législative.

Non-assujettis-
sment des
décisions et
des régimes à
une révision
judiciaire

7 (1) Le ministre de l'Agriculture et de l'Alimentation peut demander par écrit qu'Agricorp crée, modifie ou abolisse un régime ou projet de régime.

Demande du
ministre

(2) Agricorp doit acquiescer à la demande présentée en vertu du paragraphe (1).

Acquiesce-
ment par
Agricorp

8 (1) En ce qui concerne un régime proposé ou des modifications proposées à un régime, Agricorp engage des négociations avec les organismes suivants :

Négociations

a) toute commission locale aux termes de la *Loi sur la commercialisation des produits agricoles* ou toute commission de commercialisation aux termes de la *Loi sur le lait* touchées par le régime;

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b) la Fédération des agriculteurs chrétiens;

c) le Syndicat national des cultivateurs;

d) la Fédération de l'agriculture de l'Ontario;

e) tout autre organisme ou groupe de producteurs qu'Agricorp juge approprié.

Powers not
affected by
failure to
negotiate

(2) The failure or refusal to negotiate or continue negotiation by any of the organizations referred to in clause (1) (a), (b), (c), (d) or (e) does not affect the exercise by Agricorp or the Lieutenant Governor in Council of the powers contained in this Act.

Appointment
of inspectors

9.—(1) Agricorp may appoint a chief inspector and other inspectors as it considers necessary.

Proof of
appointment

(2) The production by an inspector of a certificate of appointment purporting to be signed by Agricorp is admissible in evidence as *prima facie* proof of appointment without further proof of the signature or authority of Agricorp.

Powers of
inspector

(3) Subject to this section, an inspector may, in respect of a person enrolled in a plan, an applicant for enrolment in a plan or a person enrolled in or an applicant for enrolment in a stabilization scheme under an agreement referred to in clause 2 (2) (b),

(a) enter and inspect any lands and premises, other than a dwelling, that are owned or occupied by those persons and inspect any goods located on those lands and premises; and

(b) demand the production by those persons of books, records or documents, or extracts from those books, records or documents relating to the farm products to which the plan applies.

Time for
exercising
powers

(4) An inspector shall exercise powers under subsection (3) only during normal business hours, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

Written
demand

(5) If an inspector makes a demand under clause (3) (b), the demand shall be in writing and shall include a statement of the nature of the books, records, documents or extracts required.

Obligation to
produce

(6) If an inspector makes a demand under clause (3) (b), the person having custody of the books, records, documents or extracts shall produce them to the inspector.

Photocopying

(7) The inspector may detain books, records, documents or extracts that are produced under subsection (6) for the purpose of photocopying them, but that photocopying must be carried out with reasonable dispatch, and the inspector shall forthwith after the photocopying return them to the person who produced them.

(2) Le défaut ou le refus d'un des organismes mentionnés à l'alinéa (1) a), b), c), d) ou e) d'engager ou de poursuivre des négociations ne porte pas atteinte à l'exercice des pouvoirs qui sont conférés à Agricorp ou au lieutenant-gouverneur en conseil par la présente loi.

Pouvoirs non touchés par le défaut de négociations

9 (1) Agricorp peut nommer un inspecteur en chef et les autres inspecteurs qu'elle juge nécessaires.

Nomination d'inspecteurs

(2) La production par un inspecteur d'une attestation de sa nomination, qui se présente comme étant signée par Agricorp, est admissible comme preuve *prima facie* de sa nomination, sans qu'il soit nécessaire de prouver l'authenticité de la signature qui y est apposée ou l'autorité d'Agricorp.

Preuve de la nomination

(3) Sous réserve du présent article, un inspecteur peut, à l'égard d'une personne inscrite au régime, de l'auteur d'une demande d'inscription au régime, ou à l'égard d'une personne inscrite à un programme de stabilisation ou de l'auteur d'une demande d'inscription à un programme de stabilisation dans le cadre d'un accord visé à l'alinéa 2 (2) b) :

Pouvoirs de l'inspecteur

a) pénétrer dans tout bien-fonds et lieu, autre qu'une habitation, qu'occupent ou dont sont propriétaires ces personnes, inspecter le bien-fonds et le lieu et examiner les objets qui s'y trouvent;

b) demander que ces personnes produisent les livres, dossiers, documents ou extraits de ceux-ci qui se rapportent aux produits agricoles auxquels le régime s'applique.

(4) Un inspecteur n'exerce ses pouvoirs en vertu du paragraphe (3) que pendant les heures normales de bureau. Toutefois, rien dans le présent article ne porte atteinte à la délivrance et à l'exécution d'un mandat délivré en vertu de l'article 142 de la *Loi sur les infractions provinciales*.

Exercice des pouvoirs

L.R.O. 1980, chap. 400

(5) Si un inspecteur présente une demande aux termes de l'alinéa (3) b), celle-ci est faite par écrit et elle contient des données sur la nature des livres, dossiers, documents ou extraits exigés.

Demande écrite

(6) Si un inspecteur présente une demande aux termes de l'alinéa (3) b), la personne qui a la garde des livres, dossiers, documents ou extraits les produit à l'inspecteur.

Production obligatoire

(7) L'inspecteur peut détenir les livres, dossiers, documents ou extraits qui sont produits aux termes du paragraphe (6) en vue de les photocopier. Toutefois, la photocopie de ces pièces

Photocopie

Admissibility
of
photocopies

(8) If a book, record, document or extract has been photocopied under subsection (7), a photocopy purporting to be certified by an inspector to be a copy made pursuant to that subsection is admissible in evidence to the same extent as, and has the same evidentiary value as, the book, record, document or extract of which the photocopy is a copy.

Obstruction
of inspector

(9) No person shall obstruct an inspector who is carrying out his or her duties or shall provide false information or refuse to provide information.

Offence

(10) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Protection
from liability

10. An inspector under section 9 is not personally liable for any act done in good faith under this Act or purporting to be done under this Act.

Agricorp may
cancel
enrolment in
plan

11.—(1) Agricorp may, after a hearing, cancel the enrolment of a person enrolled in a plan if Agricorp finds that person or any other person in that person's employ or associated with that person in producing the farm product for which he or she is enrolled, has,

(a) contravened subsection 9 (9);

(b) knowingly supplied Agricorp with information respecting that farm product that is false or calculated to mislead and that may affect payment to him or her under the plan; or

(c) ceased to be qualified to be enrolled in the plan.

Orders where
enrolment
cancelled

(2) In cancelling a plan under subsection (1), Agricorp may make orders that it considers proper with respect to the repayment of the whole or any part of fees paid or the payment of benefits that might otherwise accrue under this Act.

Deemed
withdrawal
from plan

(3) If a person who has been enrolled in a plan fails to pay fees in the amount and manner prescribed by Agricorp, he or she shall be deemed to have withdrawn from enrolment in the plan.

doit se faire avec une diligence raisonnable, et l'inspecteur les rend ensuite sans délai à la personne qui les a produites.

(8) Si un livre, dossier, document ou extrait a été photocopié aux termes du paragraphe (7), la photocopie qui se présente comme étant certifiée par un inspecteur comme copie faite conformément à ce paragraphe est admissible en preuve dans la même mesure et a la même valeur probante que le livre, dossier, document ou extrait dont elle est une photocopie.

Admissibilité
des
photocopies

(9) Nul ne doit entraver un inspecteur dans l'exercice de ses fonctions, lui fournir de faux renseignements ni refuser de lui fournir des renseignements.

Entrave

(10) Quiconque enfreint le présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 2 000 \$.

Infraction

10 L'inspecteur visé à l'article 9 n'est pas tenu personnellement responsable d'un acte qui a été accompli de bonne foi aux termes de la présente loi ou qui paraît avoir été accompli aux termes de la présente loi.

Immunité

11 (1) Après avoir tenu une audience, Agricorp peut annuler l'inscription d'une personne inscrite au régime si elle conclut que cette personne ou toute autre personne à son emploi ou associée à elle pour la production du produit agricole pour lequel elle est inscrite a, selon le cas :

Annulation de
l'inscription
au régime par
Agricorp

- a) enfreint le paragraphe 9 (9);
- b) sciemment donné à Agricorp, en ce qui concerne ce produit agricole, des renseignements faux ou destinés à induire en erreur et pouvant influencer sur le paiement qui lui est fait aux termes du régime;
- c) cessé de posséder les qualités requises pour être inscrite au régime.

(2) Lorsqu'elle annule un régime en vertu du paragraphe (1), Agricorp peut rendre des ordonnances qu'elle juge appropriées à l'égard du remboursement intégral ou partiel des cotisations payées ou du paiement de prestations qui pourraient autrement s'accumuler aux termes de la présente loi.

Ordonnances
en cas d'annu-
lation de
l'inscription

(3) Si une personne inscrite à un régime omet de verser les cotisations d'après le montant fixé et de la façon prescrite par Agricorp, elle est réputée sortie du régime.

Sortie du
régime
réputée

Re-enrolment
or refusal to
enrol

(4) If a person who was enrolled in a plan has withdrawn, is deemed to have withdrawn from enrolment in the plan or has had his or her enrolment cancelled, Agricorp may enrol or refuse to enrol that person in that or any other plan.

FUNDING

Ontario Farm
Income
Stabilization
Fund
R.S.O. 1980,
c. 153

12.—(1) The Ontario Farm Income Stabilization Fund established under the *Farm Income Stabilization Act* is continued under the name “Ontario Farm Income Stabilization Fund” in English and under the name “Caisse de stabilisation des revenus agricoles de l’Ontario” in French.

Idem
R.S.C. 1985,
c. B-1

(2) Agricorp shall maintain the Fund in a bank named in Schedule I to the *Bank Act* (Canada).

Deposits into
Fund

(3) Agricorp shall deposit into the Fund all money that it receives under this Act.

Separate
books of
account

(4) Agricorp shall maintain separate books of account respecting each farm product to which a plan applies.

Investments

R.S.O. 1980,
c. 161

(5) Agricorp may invest all or any part of the Fund in any investment that the Treasurer of Ontario may make under section 3 of the *Financial Administration Act*, or that the Treasurer of Ontario has otherwise approved.

Payment out
of Fund

(6) Agricorp shall pay out of the Fund all money required for,

(a) the payment of money under plans; and

(b) the repayment of loans made under section 14.

Surplus

(7) Agricorp shall, at the direction of the Treasurer of Ontario, pay into the Consolidated Revenue Fund the surplus money in the Fund that is not necessary for the current requirements of Agricorp, and section 7 of the *Financial Administration Act* applies to that payment.

Fees paid to
Agricorp

13. All fees fixed in respect of a plan shall be paid to Agricorp.

Loans to
Agricorp

14.—(1) The Treasurer of Ontario may make loans to Agricorp with the approval of the Lieutenant Governor in Council and on the terms and conditions that the Lieutenant Governor in Council prescribes.

(4) Si une personne inscrite à un régime en est sortie, est réputée en être sortie ou si son inscription a été annulée, Agricorp peut l'inscrire ou refuser de l'inscrire à ce régime ou à tout autre régime.

Réinscription
ou refus
d'inscription

FINANCEMENT

12 (1) La Caisse de stabilisation des revenus agricoles de l'Ontario créée en vertu de la *Loi sur la stabilisation des revenus agricoles* est maintenue sous le nom de «Caisse de stabilisation des revenus agricoles de l'Ontario» en français et sous le nom de «Ontario Farm Income Stabilization Fund» en anglais.

Caisse de stabilisation des revenus agricoles de l'Ontario
L.R.O. 1980, chap. 153

(2) Agricorp conserve la Caisse dans une banque désignée à l'Annexe I de la *Loi sur les banques* (Canada).

Idem
L.R.C. 1985, chap. B-1

(3) Agricorp dépose à la Caisse toutes les sommes d'argent qu'elle reçoit aux termes de la présente loi.

Dépôts à la Caisse

(4) Agricorp tient des livres de comptes distincts pour chaque produit agricole auquel un régime s'applique.

Livres de comptes distincts

(5) Agricorp peut investir la totalité ou une partie du produit de la Caisse dans tout placement que le trésorier de l'Ontario peut faire en vertu de l'article 3 de la *Loi sur l'administration financière* ou qu'il a autrement approuvé.

Placements
L.R.O. 1980, chap. 161

(6) Agricorp prélève sur la Caisse les sommes d'argent requises aux fins suivantes :

Versements prélevés sur la Caisse

a) le paiement des sommes d'argent dues aux termes des régimes;

b) le remboursement des prêts consentis aux termes de l'article 14.

(7) Agricorp doit, conformément à la directive du trésorier de l'Ontario, verser au Trésor les sommes d'argent excédentaires au crédit de la Caisse qui ne sont pas nécessaires à ses besoins courants. L'article 7 de la *Loi sur l'administration financière* s'applique dans ce cas.

Excédent

13 Toutes les cotisations fixées relatives à un régime sont versées à Agricorp.

Cotisations versées à Agricorp

14 (1) Le trésorier de l'Ontario peut consentir des prêts à Agricorp avec l'approbation du lieutenant-gouverneur en conseil et aux conditions que ce dernier prescrit.

Prêts à Agricorp

Evidence of
loans

(2) The Treasurer of Ontario may acquire and hold bonds, debentures, notes or documents of Agricorp as evidence of the indebtedness of Agricorp under a loan made under this section.

Contributions
from Canada

15. Agricorp may accept any contribution payable by the Government of Canada under an agreement made under clause 2 (2) (b) with respect to the costs of administering this Act or plans.

Regulations

16. The Lieutenant Governor in Council may make regulations,

(a) designating farm products for the purposes of this Act;

(b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Transition

R.S.O. 1980,
c. 153

17.—(1) Plans established under subsection 6 (1) of the *Farm Income Stabilization Act* shall be deemed to be continued under subsection 4 (1) of this Act.

Idem

R.S.C. 1985,
c. A-8

(2) Agreements that the Minister of Agriculture and Food has entered into with the Government of Canada as provided for in the *Agricultural Stabilization Act* (Canada) shall be deemed to be continued under clause 2 (2) (b) of this Act.

Idem

(3) A reference to the Farm Income Stabilization Commission of Ontario in any plan or document related to the Fund shall be deemed to be a reference to Agricorp.

Repeal

R.S.O. 1980,
c. 153

18. The *Farm Income Stabilization Act* is repealed.

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Farm Income Stabilization Act, 1990*.

(2) Le trésorier de l'Ontario peut acquérir et garder des obligations, débentures, billets ou documents d'Agricorp comme preuve de la dette d'Agricorp aux termes d'un prêt consenti en vertu du présent article.

Preuve des
prêts

15 Agricorp peut accepter les contributions que le gouvernement du Canada est tenu de verser aux termes d'un accord conclu en vertu de l'alinéa 2 (2) b) et les affecter aux frais d'application de la présente loi ou de gestion des régimes.

Contributions
du Canada

16 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

a) désigner les produits agricoles pour l'application de la présente loi;

b) traiter des questions jugées nécessaires ou utiles pour réaliser efficacement l'objet de la présente loi.

17 (1) Les régimes créés en vertu du paragraphe 6 (1) de la *Loi sur la stabilisation des revenus agricoles* sont réputés maintenus en vertu du paragraphe 4 (1) de la présente loi.

Disposition
transitoire
L.R.O. 1980,
chap. 153

(2) Les accords que le ministre de l'Agriculture et de l'Alimentation a conclus avec le gouvernement du Canada comme le prévoit la *Loi sur la stabilisation des prix agricoles* (Canada) sont réputés maintenus aux termes de l'alinéa 2 (2) b) de la présente loi.

Idem
L.R.C. 1985,
chap. A-8

(3) Une mention de la Commission de stabilisation des revenus agricoles de l'Ontario dans un régime ou document relatif à la Caisse est réputée une mention d'Agricorp.

Idem

18 La *Loi sur la stabilisation des revenus agricoles* est abrogée.

Abrogation
L.R.O. 1980,
chap. 153

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

20 Le titre abrégé de la présente loi est *Loi de 1990 sur la stabilisation des revenus agricoles*.

Titre abrégé

Bill 237

An Act to provide for the Regulation of Gaming Services

The Hon. G. Sorbara

Minister of Consumer and Commercial Relations



1st Reading June 27th, 1990

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill establishes a regulatory framework for gaming services.

Under Part II of the Bill, persons who provide gaming premises (for example, bingo halls) or who supply materials or equipment for games of chance or who hold themselves out as so doing will have to be registered suppliers. Persons who work in gaming premises for pay or other consideration will have to be registered gaming assistants. The Registrar of Gaming Services will be able to refuse registration as a supplier to persons who may not be financially responsible. Suppliers and gaming assistants may be refused registration because of past conduct or because of contraventions of the proposed Act. The Registrar will be able to suspend or refuse renewal of registrations on similar grounds. Applicants will be able to appeal decisions of the Registrar to The Commercial Registration Appeal Tribunal.

Under Part III, investigation and enforcement powers are given to investigators to ensure fair treatment of players and to provide financial protection to persons who hold licences under the *Criminal Code* to conduct games of chance. These include powers of search and seizure as well as the power of the Director of Gaming Services to issue "freeze" orders requiring any person to hold in trust assets of another person to protect licensees.

Under Part IV, registered suppliers are required to keep certain records and to keep a segregated trust account into which must be deposited advance payments made by licensees and money received to pay licence fees. Certain other requirements are imposed on registrants as set out in sections 30 to 36.

Under Part V, the Director will be able to make orders requiring compliance with the Act. He or she will also be able to apply to the Ontario Court (General Division) for a court order to ensure compliance.

Penalties and regulation-making powers, together with other matters of a general nature, are set out in Part VI.

Bill 237

1990

An Act to provide for the Regulation of Gaming Services

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“game of chance” means a lottery scheme for which a licence may be issued under the laws of Canada by or under the authority of the Lieutenant Governor in Council;

“gaming event” means an occasion on which a game of chance is played under the authority of a licence;

“gaming premises” means a place which is kept for the purpose of playing games of chance;

R.S.C. 1985, c. C-46 “licence” means a licence issued under the *Criminal Code* (Canada) to conduct or manage a lottery scheme;

“licensee” means a person to whom a licence is issued;

“person” means an individual, corporation, organization, association or partnership;

“registered gaming assistant” means a person registered as a gaming assistant under this Act;

“registered supplier” means a person registered as a supplier under this Act;

“regulations” means the regulations made under this Act.

PART I

ADMINISTRATION

Director **2.—**(1) There shall be a Director of Gaming Services who shall be appointed by the Lieutenant Governor in Council.

Powers of Director (2) The Director may exercise the powers and shall perform the duties of the Director under this Act.

Registrar **3.—**(1) There shall be a Registrar of Gaming Services who shall be appointed by the Lieutenant Governor in Council.

Powers of Registrar (2) The Registrar may exercise the powers and shall perform the duties of the Registrar under this Act under the supervision of the Director.

(3) The Registrar, with the approval of the Director, may appoint one or more Deputy Registrars and may delegate his or her powers or duties to them, subject to any conditions set out in the delegation.

Deputy Registrars

PART II

REGISTRATION

4.—(1) No person shall, except as provided in this Act and the regulations,

Prohibition against acting as supplier

- (a) provide gaming premises;
- (b) make, fabricate, print, distribute or otherwise supply materials or equipment for the playing of games of chance; or
- (c) hold himself, herself or itself out as doing any of the things mentioned in clause (a) or (b).

(2) A person may undertake any of the activities mentioned in subsection (1) if the person is a registered supplier.

Registration of suppliers

(3) No registered supplier shall provide gaming premises except at a place that is named in the supplier's registration.

Location of gaming premises

(4) A registered supplier who provides gaming premises shall ensure that each gaming premises named in the supplier's registration is managed and directly supervised by a registered gaming assistant.

Management of gaming premises

(5) Subsection (1) does not apply to a licensee in respect of the licensee's licensed activities.

Licensees exempted

(6) A registered supplier shall ensure that gaming premises provided by the supplier are operated in accordance with this Act and the regulations and the terms of the supplier's registration.

Operating gaming premises

5.—(1) Except as provided in this Act and the regulations, no person, for consideration, shall participate in or facilitate in any manner the playing of a game of chance.

Prohibition against acting as gaming assistant

(2) A person may undertake any of the activities mentioned in subsection (1), if the person is a registered gaming assistant.

Registration of gaming assistant

(3) Subsection (1) does not apply to persons who are registered suppliers or to players of a game of chance.

Exception

Use of
gaming
assistants

(4) No person shall use the services of a person to participate in or facilitate in any manner the playing of a game of chance, for consideration, unless the person being used is registered under this Act.

Operating
gaming
premises

(5) A registered gaming assistant who is supervising gaming premises shall ensure that the gaming premises are operated in accordance with this Act and the regulations and the terms of the supplier's registration.

Supplying
gaming
assistants

(6) No person shall supply the services of a person who, for consideration, participates in or facilitates in any manner the playing of a game of chance unless the person whose services are supplied is registered as a gaming assistant under this Act.

Registration
upon
application

6. A person may apply to the Registrar to be registered as a supplier or as a gaming assistant.

Registration
of suppliers

7.—(1) The Registrar shall refuse the registration of an applicant as a supplier or the renewal of registration of a supplier if,

- (a) having regard to the financial position of the applicant, the applicant cannot reasonably be expected to be financially responsible in the conduct of the business;
- (b) the past conduct of the applicant affords reasonable grounds for belief that the applicant will not carry on business in accordance with law, and with integrity, honesty, and in the public interest; or
- (c) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

Idem

(2) In addition to the grounds set out in subsection (1), if the applicant is a corporation or partnership, the Registrar shall refuse the registration if the past conduct of the officers, directors or partners affords reasonable grounds to believe that the business will not be carried on in accordance with law, and with integrity and honesty, and in the public interest.

Related
persons

(3) In considering an application, the Registrar may consider the financial position and the past conduct of any person who is related to the applicant or to any officers, directors or partners of the applicant if the Registrar has reason to believe that the person is or may be involved with the applicant's business.

8.—(1) The Registrar shall refuse the registration of an applicant as a gaming assistant or the renewal of registration of a gaming assistant if,

Registration
of gaming
assistants

- (a) the past conduct of the applicant affords reasonable grounds to believe that the applicant will not act as a gaming assistant in accordance with law, and with integrity and honesty, and in the public interest; or
- (b) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) In considering an application, the Registrar may consider the past conduct of persons who are related to the applicant.

Related
persons

9.—(1) A registration is subject to such terms to give effect to the purposes of this Act as are consented to by the applicant, imposed by The Commercial Registration Appeal Tribunal or prescribed by the regulations.

Terms of
registration

(2) The Registrar may require, as a term of registration, that an applicant for registration or renewal of registration pass such examinations as may be prescribed by the regulations.

Examinations

10.—(1) The Registrar or a person authorized by the Registrar may make such inquiries and conduct such investigations into the character, financial position and competence of any applicant or registrant and persons related to the applicant as are necessary to ensure that the applicant or registrant meets the requirements of this Act and the regulations.

Inquiries into
applicants
and
registrants

(2) If an applicant or registrant is a corporation or partnership, the Registrar or authorized person may make the inquiries or conduct the investigations into the officers, directors or partners of the applicant or registrant.

Idem

(3) The Registrar may require information or material from an applicant or registrant or, in the case of a corporation or partnership, from any officer, director or partner.

Registrar
requiring
information

(4) The Registrar may require that any information provided under subsection (3) be verified by statutory declaration.

Verification
of
information

11.—(1) The Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disen-

Refusal to
renew,
suspend or
revoke
registration

title the registrant to registration under section 7 or 8, as the case may be, if the registrant were an applicant.

Idem (2) The Registrar may refuse to renew or may suspend or revoke a registration if the registrant is in breach of a term of the registration.

Notice of proposal to refuse or revoke registration **12.**—(1) If the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, the Registrar shall serve notice of the proposal, together with written reasons, on the applicant or registrant.

Right to hearing (2) The notice of the proposal shall inform the person to whom it is addressed that the person is entitled to a hearing before The Commercial Registration Appeal Tribunal.

Notice (3) A person who wants a hearing shall mail or deliver a written request for a hearing to the Registrar and to the Tribunal within fifteen days after notice of the proposal is served.

Registrar's power if no hearing (4) The Registrar may carry out the proposal upon the expiry of the fifteen days if a hearing is not requested.

Scheduling the hearing (5) If an applicant or registrant requests a hearing, the Tribunal shall schedule and hold the hearing.

Power of Tribunal (6) After holding a hearing, the Tribunal may by order direct the Registrar,

(a) to carry out the proposal; or

(b) to refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take.

Discretion of Tribunal (7) In making an order, the Tribunal may substitute its opinion for that of the Registrar.

Terms of order (8) The Tribunal may attach such terms to its order or to the registration as it considers appropriate.

Parties to the proceedings (9) The Registrar, the person who requested the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Order takes effect immediately
R.S.O. 1980, c. 274 (10) Despite an appeal from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

13. The Registrar may cancel a registration upon the request in writing of the registrant and section 12 does not apply.

Voluntary
cancellation
of
registration

14.—(1) A person who is refused registration or who is refused renewal of a registration or whose registration is revoked may apply to the Registrar for registration only if at least one year has passed since the refusal.

Further
applications

(2) A person whose registration is suspended under this Act for more than one year may apply to the Registrar for reinstatement only if at least one year has passed since the suspension.

Idem

(3) Despite subsection 12 (1), the Registrar may, without giving written reasons, reject an application under this section if, in the Registrar's opinion, the application does not disclose evidence that was previously unavailable to the applicant or a material change in circumstances since the refusal, revocation or suspension took effect.

Rejection of
further
application

15.—(1) If the Registrar proposes to suspend or revoke a registration, the Registrar may by order temporarily suspend the registration if the Registrar considers it to be necessary in the public interest.

Temporary
suspension

(2) An order made under subsection (1) shall take effect immediately but otherwise section 12 continues to apply.

Idem

(3) If a hearing is required with respect to a proposal to suspend or revoke a registration, the temporary suspension order expires thirty days after the request for a hearing is mailed or delivered to the Registrar and The Commercial Registration Appeal Tribunal.

Expiry of
order

(4) If the hearing begins within thirty days of the request for a hearing being mailed or delivered, the Tribunal may extend the order until the hearing is concluded.

Extension of
order

16. If within the time prescribed by the regulations, or if no time is prescribed, before the expiry of the registrant's registration, a registrant applies in accordance with the regulations for renewal of registration and pays the fee set out in the regulations, the registration shall be deemed to continue,

Continuation
pending
renewal

(a) until the renewal is granted; or

(b) if the registrant is served with a notice of a proposal to refuse to grant the renewal, until the time for requesting a hearing has expired and, if a hearing is

requested, until The Commercial Registration Appeal Tribunal has made its order.

PART III

INVESTIGATIONS AND ENFORCEMENT

- Definition** **17.** In this Part, “record” includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the record is on paper or is in electronic, photographic or other form.
- Facilitating investigation** **18.** It is a condition of registration that every registrant facilitate investigations under this Act.
- Investigators** **19.—(1)** The Registrar may appoint any individual to be an investigator for the purpose of determining whether there is compliance with this Act and the regulations, the terms of a licence or the terms of a registration.
- Police officers** (2) Police officers, by virtue of office, are investigators for the purposes of this Act and the regulations.
- Powers of investigators** (3) For the purpose of carrying out an investigation, an investigator may,
- (a) enter any place at any reasonable time;
 - (b) request the production for inspection of anything relevant to the investigation including things used in playing games of chance, records and cash;
 - (c) inspect anything relevant to the investigation including things used in the playing of games of chance and records and, upon giving a receipt therefor, remove any such thing for the purpose of making copies or extracts or for the purpose of examination or testing;
 - (d) inquire into negotiations, transactions, loans or borrowings of a registrant and into assets owned, held in trust, acquired or disposed of by a registrant that are relevant to an investigation;
 - (e) conduct such tests as are reasonably necessary.
- Idem** (4) An investigator shall promptly return things removed under clause (3) (c) unless the things are required as evidence.

(5) An investigator may call upon any expert he or she considers necessary to assist in carrying out an investigation under this Act. Expert assistance

(6) A person shall not exercise a power of entry to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a search warrant. Entry to dwellings

20.—(1) A justice of the peace may issue a warrant authorizing the investigator named in the warrant to enter a place and search it for any records or other things relevant to an investigation if the justice of the peace is satisfied on evidence upon oath that there is reasonable ground to believe that, Search warrants

(a) a person has contravened, is contravening or is about to contravene a provision of this Act or the regulations; and

(b) there are in the place records or other things that will afford evidence relevant to the contravention.

(2) A warrant issued under this section authorizes the person named in the warrant, upon giving a receipt for it, to remove any record or other thing relevant to the possible contravention. Remove things

(3) A thing removed under the authority of a warrant, unless required as evidence, shall be returned promptly to the place from which it was removed. Things to be returned promptly

(4) A warrant issued under this section, Execution and expiry of warrant

(a) shall specify the hours and days during which it may be executed; and

(b) shall name a date on which it expires, which date shall not be later than thirty days after its issue.

(5) A justice of the peace may extend the date on which a warrant expires for an additional period of no more than thirty days before or after the warrant expires upon application without notice by the investigator named in it. Extension of time

(6) A warrant issued under this section authorizes the investigator named in it to call on police officers as necessary and to use whatever force is necessary to execute the warrant. Use of force

Assistance

(7) A warrant issued under this section authorizes the investigator named in the warrant to call upon any expert he or she considers necessary to assist in executing the warrant.

Computer search

(8) A warrant issued under this section authorizes the investigator named in the warrant to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

Warrantless searches

21.—(1) An investigator may enter a place and search it for any record or other thing relevant to an investigation if the investigator believes on reasonable and probable grounds that,

(a) delay in obtaining a search warrant could lead to the destruction of evidence; and

(b) there is sufficient evidence for the issue of a search warrant.

Idem

(2) Subsections 20 (2), (3), (6), (7) and (8) apply with necessary modifications to an investigator acting under this section.

Idem

(3) An investigator who enters and searches a place under this section shall appear before a justice of the peace as soon as is practicable after doing so and shall produce all records and all copies and extracts made from records and, if requested by the justice, other things seized.

Admissibility of copies

22. Any copy or extract of any record made as the result of an investigation conducted under this Act and certified to be a true copy of, or extract from, the original, by the person who made it, is admissible in evidence to the same extent as, and has the same evidentiary value as, the record or thing of which it is a copy or extract.

Obstruction

23. No person shall hinder, obstruct or interfere with an investigator in the execution of a warrant or otherwise impede an investigator in carrying out his or her duties under this Act.

Records, providing assistance

24. A person who is required to produce a record for an investigator under this Part shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record or to produce the record in a readable form.

Freeze orders

25.—(1) The Director may order a person who has on deposit or control over, or who has for safekeeping, money or other assets of another person to hold the money or assets if,

- (a) an individual makes a statutory declaration to the Director in which the individual alleges, and sets out facts supporting the allegation, that the person whose money or assets are on deposit or being controlled or are being held for safekeeping,
 - (i) has contravened, is contravening or is about to contravene this Act or the regulations,
 - (ii) is subject to criminal proceedings or proceedings in relation to a contravention of any Act that are connected with or arise out of doing things for which registration is required under this Act, or
 - (iii) is the subject of an investigation under this Act; and
- (b) the Director, based on the statutory declaration, finds reasonable and probable grounds to believe that the interests of one or more licensees require protection.

(2) The Director may order a licensee or a person who has received money or assets from a licensee to refrain from withdrawing any money or other assets that another person has on deposit, has control over or has for safekeeping or to hold any money or other assets in the person's possession or control if the Director believes on reasonable and probable grounds that it is desirable to make the order to ensure that the licensee uses the money or assets in accordance with the terms of the licence. Idem

(3) Subsections (1) and (2) apply whether or not the money or other assets were being held in trust before the order was made. Idem

(4) An order made under this section takes effect immediately upon being served. When order takes effect

(5) An order made against a bank, loan or trust corporation or other financial institution applies only to the office, branch or agency named in the order. Branch offices

(6) A person ordered to hold money or assets to which the order applies shall hold the money or assets in trust for the benefit of those ultimately entitled to the money or assets until the Director revokes or varies the order or the Court makes an order under section 26. Money held in trust

Bond in lieu (7) The Director may vary or revoke an order made under this section if the person whose money or assets are subject to the order files with the Director a form of security acceptable to the Director in an amount acceptable to the Director.

Release orders **26.**—(1) If the Director has made an order under section 25, any party, on notice to the other parties, may apply to the Ontario Court (General Division) for an order concerning the disposition of the money or assets.

Parties to an application (2) The parties to an application under this section are,

- (a) the Director;
- (b) the person whose money or assets are the subject of the order made by the Director;
- (c) any person against whom the order is made; and
- (d) any other person specified by the Court.

Powers of Court (3) In an application under this section, the Court may,

- (a) direct the disposition of the money or assets;
- (b) set aside or vary the order of the Director; or
- (c) make any other order it considers appropriate.

Confidentiality **27.**—(1) No person employed in the administration or enforcement of this Act shall communicate any information that comes to the person's knowledge in the course of employment to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act;
- (b) for the purpose of law enforcement;
- (c) to the person's counsel or to a court or other tribunal in any proceeding under this Act;
- (d) to inform a licensee involved of any information relevant to the licensee.

Compellability (2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of

the person's employment, except in a proceeding under this Act.

(3) Despite subsection (1), information may be communicated if the person to whom it relates consents to its being communicated. Consent

PART IV

REGULATION OF SUPPLIERS AND GAMING ASSISTANTS

28.—(1) Every registered supplier shall keep a record with respect to each gaming premises named in the registration and with respect to each gaming event, and the record shall contain, Record of gaming event

- (a) the name of the licensee and the licence number;
- (b) the details of the service being supplied to the licensee;
- (c) the cost of each service;
- (d) the type of gaming event being conducted;
- (e) the date of each gaming event;
- (f) the start and finish time of each gaming event;
- (g) the amount of deposit received and a record of the disbursement of the deposit; and
- (h) such other information as may be prescribed by the regulations.

(2) Every registered supplier shall keep financial records in such form and containing such information as is prescribed by the regulations. Financial records

(3) Every registered supplier shall keep the books and records required under this Act in Ontario at the business premises identified in the supplier's application for registration. Location of records

(4) Despite subsection (3), the Registrar, upon a request in writing, may authorize books and records to be kept at any other location under such terms as the Registrar may impose. Idem

29.—(1) Every registered supplier shall maintain for the benefit of licensees with whom the supplier does business an account designated as a trust account in a chartered bank, Trust account

R.S.O. 1980, c. 102. loan or trust company, credit union, as defined in the *Credit Unions and Caisses Populaires Act*, or Province of Ontario Savings Office.

Idem (2) A registered supplier receives money described in subsections (3) and (4) in trust and shall hold it as trustee for the benefit of the licensees with whom the supplier does business.

Idem (3) A registered supplier shall deposit in the trust account all money paid in advance by a licensee to the supplier for the supply of services and the money shall not be paid out except for expenses actually incurred or until the contract between the parties is complete.

Idem (4) If a registered supplier is to pay licence fees on behalf of a licensee, the money received by the supplier in respect of the fees shall be deposited in the trust account by the registered supplier and shall not be paid out except to a licence issuer.

Trust money held separately (5) A registered supplier shall at all times keep money held in trust separate and apart from money belonging to the supplier and shall disburse such money only in accordance with the regulations and the terms of the trust agreement with the licensee.

Notice of changes, registered suppliers **30.—**(1) Every registered supplier shall, not later than five days after the event, notify the Registrar in writing of,

(a) any change in address for service; or

(b) any change in the officers in the case of a corporation or partnership.

Idem, registered gaming assistants (2) Every registered gaming assistant shall, not later than five days after the event, notify the Registrar in writing of any change in address for service.

Idem, method of giving (3) The notice may be given to the Registrar by mail or delivery.

Filing financial statement **31.** When required by the Registrar, a registered supplier shall file an audited financial statement showing the matters specified by the Registrar.

Inducing breach of contract **32.** No registered supplier shall induce any party to a contract for gaming services to break the contract for the purpose of entering into another contract for gaming services.

33. No registered supplier or registered gaming assistant shall induce or cause any breach of the terms of a licence. Inducing
breach of
licence

34. Registered suppliers and registered gaming assistants may only perform such services related to the conduct, management or operation of a gaming event as are prescribed by the regulations. Services
limited

35. A registered gaming assistant shall, while performing his or her duties, carry an identification card issued to him or her under this Act and shall produce it for inspection at the request of any person. Identification
card

36.—(1) If two or more licensees conduct a gaming event in concert with one another, a registered gaming assistant shall not charge more than the fee prescribed by the regulations for a single event. Restriction
on fees

(2) No person shall enter into or offer to enter into an arrangement for the payment of a fee or other remuneration in respect of any game of chance or gaming event or the provision of any goods or services in relation to games of chance and gaming events that exceeds the amount designated by the Lieutenant Governor in Council or that is prescribed by the regulations. Idem

PART V

COMPLIANCE ORDERS

37.—(1) The Director may propose to make an order that a person stop contravening this Act and the regulations or not contravene this Act and the regulations if, Director's
order for
compliance
on notice

- (a) an individual makes a statutory declaration to the Director in which the individual alleges, and sets out facts that support the allegation, that the person is contravening, has contravened or is about to contravene this Act or the regulations; and
- (b) the Director, based on the statutory declaration, finds reasonable and probable grounds to believe that the person is contravening, has contravened or is about to contravene this Act or the regulations.

(2) The Director shall serve notice of a proposal under subsection (1) together with written reasons for the proposal on each person to be named in the order. Notice of
proposal

Right to
hearing

(3) The notice of the proposal shall inform each person receiving it that the person is entitled to a hearing by The Commercial Registration Appeal Tribunal if, not later than fifteen days after receiving the Director's notice, the person mails or delivers to the Director and the Tribunal a written request for a hearing.

Idem

(4) A person who receives a notice of a proposal may request a hearing as set out in it.

If hearing
not requested

(5) The Director may make the order if a hearing is not requested within fifteen days after receiving the Director's notice.

Director's
order for
immediate
compliance

38.—(1) The Director may order a person to stop contravening this Act and the regulations or to not contravene this Act and the regulations without serving a proposal under section 37 if,

- (a) an individual makes a statutory declaration to the Director in which the individual alleges, and sets out facts which support the allegation, that the person is contravening, has contravened or is about to contravene this Act; or
- (b) the Director, based on the statutory declaration, finds reasonable and probable grounds to believe that the person is contravening, has contravened or is about to contravene this Act or the regulations; and
- (c) the Director believes it necessary to make an immediate order to protect the public.

Idem

(2) The Director shall serve a copy of the order together with written reasons for it on each person named in it.

Idem

(3) The copy shall inform each person receiving it that the person is entitled to a hearing by the Tribunal if, not later than fifteen days after receiving the order, the person mails or delivers to the Director a written request for a hearing.

Right to a
hearing

(4) A person who receives the copy may request a hearing as set out in it.

Expiry of
order

(5) If a hearing is requested, the order expires fifteen days after the person mails or delivers the request for a hearing.

39.—(1) If a person requests a hearing under section 37 or 38, The Commercial Registration Appeal Tribunal shall schedule and hold the hearing. Hearing

(2) The Director, the person who requested the hearing and any other persons the Tribunal may specify are parties to the hearing. Parties

(3) The Tribunal, on motion with notice to all parties, may extend the time at which an order made under section 38 is to expire. Extension of order

(4) The Tribunal may, Order of Tribunal

(a) by order, confirm or set aside an order made under section 38; or

(b) order the Director to take whatever action the Tribunal considers the Director ought to take to give effect to the purposes of this Act.

(5) In making an order, the Tribunal may substitute its opinion for that of the Director. Opinion substituted

(6) The Tribunal may attach any terms to its order that it considers proper to give effect to the purposes of this Act. Conditions

(7) Despite an appeal from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. Order takes effect immediately
R.S.O. 1980, c. 274

40.—(1) If it appears to the Director that any person is not complying with this Act or the regulations or an order made under this Act, despite the imposition of any penalty in respect of such non-compliance and in addition to any other right the Director may have, the Director may apply to a judge of the Ontario Court (General Division) for an order directing the person to comply with the provision. Court order for compliance

(2) Upon an application under subsection (1), the judge may make such order as he or she thinks fit. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (1). Appeal

PART VI

GENERAL

Service

41.—(1) Anything required to be delivered or mailed under this Act is sufficiently delivered or mailed if delivered personally or sent by registered mail addressed to the person to whom or on whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry of Consumer and Commercial Relations.

Service by
registered
mail

(2) Except as provided in this section, if service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing.

Rebuttal of
deemed
service

(3) Subsection (2) does not apply if the person who is being served establishes that the notice or order was not received until a later date because of absence, accident, illness or other cause beyond the person's control.

Other service

(4) Despite subsections (1) and (2), The Commercial Registration Appeal Tribunal may order any other method of service in respect of any matter before the Tribunal.

Offences

42.—(1) Every person is guilty of an offence who knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations.

Idem

(2) It is an offence for any director or officer of a corporation,

- (a) to knowingly cause, authorize, permit or participate in the commission by the corporation of an offence referred to in subsection (1); or
- (b) to fail to take reasonable care to prevent the corporation from committing an offence referred to in subsection (1).

Penalty

(3) A person other than a corporation convicted of an offence under this Act is liable to a fine of not more than

\$50,000 or to imprisonment for a term of not more than one year, or to both.

(4) A corporation convicted of an offence under this Act is liable to a fine of not more than \$200,000. Idem

(5) No proceeding under clause (1) (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar. Limitation period

(6) No proceeding under clause (1) (b) or (c) or subsection (2) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

43.—(1) The Registrar may issue a signed certificate that contains information concerning, Certificate of Registrar

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; and
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing.

(2) The certificate issued by the Registrar is, without proof of the office or signature of the Registrar, receivable in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in the certificate. Admissibility of certificate

44. The Registrar may from time to time prepare, publish and distribute to the public a list of all persons registered under this Act. List of registrants

45. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing anything in this Act that is referred to as being prescribed by the regulations;
- (b) exempting any person or class of persons from any or all of the provisions of this Act and the regulations;
- (c) requiring registered suppliers and registered gaming assistants to be bonded in such form and on such

terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

- (d) requiring and governing books, accounts and other records to be kept by registered suppliers and registered gaming assistants;
- (e) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (f) prescribing the fees payable upon application for registration and renewal of registration and any other fees in connection with the administration of this Act and the regulations;
- (g) prescribing the fees that may be charged by registered suppliers and registered gaming assistants;
- (h) prescribing forms and providing for their use;
- (i) requiring registered suppliers and registered gaming assistants to make returns and furnish information to the Registrar;
- (j) requiring any information required to be furnished or contained in any form or return to be verified by statutory declaration;
- (k) prescribing the services related to the conduct, management or operation of a game of chance that a registered supplier or registered gaming assistant may perform;
- (l) prescribing minimum quality or standards for things used in the playing of a game of chance;
- (m) prescribing rules related to the scheduling of games of chance;
- (n) prescribing standards for rules of play for games of chance;
- (o) prescribing the manner in which registrants maintain their trust accounts and other records;
- (p) requiring and setting standards for security at lottery events;

- (q) governing payments out of registrants' trust accounts.

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

47. The short title of this Act is the *Gaming Services Act*, Short title
1990.



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